97th Congress
2d Session

COMMITTEE PRINT

A LEGISLATIVE HISTORY OF THE SAFE DRINKING WATER ACT

TOGETHER WITH A

SECTION-BY-SECTION INDEX

PREPARED BY THE

ENVIRONMENT AND NATURAL RESOURCES POLICY DIVISION

OF THE

CONGRESSIONAL RESEARCH SERVICE

OF THE

LIBRARY OF CONGRESS

FEBRUARY 1982

SERIAL NO. 97-9

Printed for the use of the
Senate Committee on Environment and Public Works

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1982

90-224 O

S322-5

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROBERT T. STAFFORD, Vermont, *Chairman*

HOWARD H. BAKER, JR., Tennessee
PETE V. DOMENICI, New Mexico
JOHN H. CHAFEE, Rhode Island
ALAN K. SIMPSON, Wyoming
JAMES ABDNOR, South Dakota
STEVE SYMMS, Idaho
SLADE GORTON, Washington
FRANK H. MURKOWSKI, Alaska

JENNINGS RANDOLPH, West Virginia
LLOYD BENTSEN, Texas
QUENTIN N. BURDICK, North Dakota
GARY HART, Colorado
DANIEL PATRICK MOYNIHAN, New York
GEORGE J. MITCHELL, Maine
MAX BAUCUS, Montana

BAILEY GUARD, *Staff Director*
JOHN W. YAGO, JR., *Minority Staff Director*

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

LETTER OF SUBMITTAL

August 20, 1981

Hon. Robert T. Stafford
Chairman, Committee on Environment and Public Works
United States Senate, Washington, D.C.

Dear Mr. Chairman:

In response to the request from you and Senator Randolph, we have prepared a legislative history of the Safe Drinking Water Act, Public Law 93-523, and three subsequent amendments to the Act, Public Law 95-190, Public Law 96-63, and Public Law 96-502.

This legislative history contains the major bills, reports, hearing testimony by Administration witnesses, and debates that went into the creation of the Safe Drinking Water Act, as amended. A section-by-section index is included which references discussions in these materials to provisions of the Act, as is a bibliography that identifies all congressional documents associated with enacting and amending this law.

The history should be of considerable interest and aid to legislators, persons in Federal, State, and local government, as well as industry and the general public, who are concerned with implementing this Act and understanding the congressional intent in its passage.

The document was compiled by Claudia Copeland, Analyst in the Environment and Natural Resources Policy Division.

We hope that this document will serve your Committee's needs for a comprehensive history of the Safe Drinking Water Act.

Sincerely,

Hugh L. Elsbree, Jr. for

Gilbert Gude, Director

CONTENTS

	Page
Introduction	1
Chapter I: The Safe Drinking Water Act, as amended	5
Chaper II:	
Public Law 96–502	49
Note	52
H.R. 8117	53
H. Rept. 96–1348	59
Senate debate:	
November 19, 1980	72
House debate:	
September 22, 1980	76
September 23, 1980	86
Chapter III:	
Public Law 96–63	87
Note	88
S. 1146, as reported May 15, 1979	89
S. Rept. 96–161	91
Senate debate:	
August 3, 1979	99
May 22, 1979	101
Administration testimony at Senate hearing	104
H.R. 3509, as reported May 15, 1979	129
H. Rept. 96–186	131
House debate:	
July 30, 1979	147
Administration testimony at House hearing	171
Chapter IV:	
Public Law 95–190	227
Note	240
S. 1528, as reported May 16, 1977	241
S. Rept. 95–190	243
Senate debate:	
November 1, 1977	247
August 5, 1977	250
May 24, 1977	254
H.R. 6827, as reported May 16, 1977	256
H. Rept. 95–338	268
House debate:	
November 1, 1977	290
July 12, 1977	299
Administration testimony at House hearing	328
Chapter V:	
Public Law 93–523	363
Note	398
Presidential statement upon enactment of Public Law 93–523, December 17, 1974	398
H.R. 13002, as reported July 10, 1974	399
H.Rept. 93–1185	533
House debate:	
December 3, 1974	616
November 19, 1974	642
The President's message, September 10, 1973	733
Administration testimony at House hearings	734
S. 433, as introduced	760
S. Rept. 93–231 (including text of S. 433, as reported June 20, 1973)	793

Chapter V—Continued

	Page
Senate debate:	
November 26, 1974	838
June 22, 1973	896
Administration testimony at Senate hearing	912
Other major legislative proposals	933
The President's message, February 15, 1973	1049
Appendixes:	
A—Administration testimony at 1972 Senate hearing	1051
B—"Community Water Supply Study, Significance of National Findings"	1069
C—Table I, Comparison of Public Law 93-523, S. 433 (as reported), and H.R. 13002 (as reported)	1085
Bibliography	1087
Section-by-section index	1093

INTRODUCTION

This legislative history provides a compilation of the significant documents and debates leading to passage of the Safe Drinking Water Act (SDWA) in 1974 (Public Law 93-523) and three subsequent laws amending the Act (Public Laws 95-190, 96-63, and 96-502). The 1974 enactment and the subsequent amendments are treated separately in individual chapters.

The boldface section references inserted in the text refer to the section numbers of the bill under discussion and, in the case of statutes enacted after Public Law 93-523, the section of the SDWA being amended. Where the bill section has already been mentioned in the text, only the SDWA reference has been provided.

The testimony of Administration witnesses at Senate and House hearings has in some cases been edited in order to omit material supplied for the record that was not directly related to legislative proposals. Those additional materials may be found in the appropriate Committee publications, which are identified in the Bibliography section of this legislative history.

SUMMARY

Enactment of the Safe Drinking Water Act in 1974 occurred after more than four years' effort by Congress to develop a national program to protect the quality of the Nation's public drinking water systems. Hearings on legislative proposals concerning drinking water were held in 1971 and 1972 by the House Interstate and Foreign Commerce Subcommittee on Public Health and Environment and in 1972 by the Senate Committee on Commerce. In September 1972 the Senate passed S. 3994, an original bill reported by the Committee on Commerce, requiring establishment of minimum Federal drinking water standards, with primary enforcement by the States and a program of grants to

support State drinking water programs. The House took no action on this bill during the remainder of the 92nd Congress.

Consideration of drinking water legislation began early in the 93rd Congress. On May 31, 1973, the Senate Commerce Subcommittee on Environment held a hearing on S. 433, a bill nearly identical to the Senate-passed measure from the 92nd Congress, and S. 1735, a bill introduced at the request of the Administration. On June 20, 1973, the Committee reported S. 433, amended, and the Senate passed the bill by voice vote without amendment on June 22. The House Commerce Subcommittee on Public Health and Environment held hearings on a number of legislative proposals, including H.R. 1059 (cosponsored by several Subcommittee members) and H.R. 5368 (the Administration's bill), on March 8 and 9, 1973. The Subcommittee approved two original bills, H.R. 9726 and H.R. 10955, and on July 10, 1974, the full Committee on Interstate and Foreign Commerce reported a clean bill, H.R. 13002. House debate on the measure occurred November 19, 1974, and the bill passed by a vote of 296-84. Language of the House bill was then inserted in S. 433. The Senate considered and amended S. 433, as amended, on November 26. The House agreed to the Senate amendment December 3, 1974. President Ford signed the Safe Drinking Water Act into law December 16, 1974 (Public Law 93-523).

At the beginning of the 95th Congress, pursuant to the Senate Reorganization of 1977, Senate Resolution 4, jurisdiction for the Safe Drinking Water Act was transferred from the Committee on Commerce to the Committee on Environment and Public Works.

In November 1977 Congress enacted amendments to the Act that reauthorized and revised certain provisions of the law (Public Law 95-190). The House and

Senate exchanged amended and re-amended versions of a bill several times before reaching final agreement on these 1977 amendments. The Senate Committee on Environment and Public Works held no hearings on reauthorization but reported S. 1528 as an original bill on May 16, 1977. The Senate passed the measure by voice vote May 24, 1977. The House Commerce Subcommittee on Health and the Environment held a hearing on several bills to amend the Safe Drinking Water Act on April 22, 1977. Subsequently the full Committee reported a clean bill, H.R. 6827, on May 16, 1977. The House considered and passed H.R. 6827 on July 12, inserted the language of that bill in S. 1528, and returned it to the Senate. When the Senate again considered the bill on August 5, it further amended S. 1528. The House took the measure up once more on November 1, 1977, adding two additional amendments. Later on that same day the Senate considered and finally concurred in the bill, as amended by the House. President Carter signed S. 1528 into law November 16, 1977.

Congress again reauthorized the Safe Drinking Water Act in 1979. The Senate Environment and Public Works Subcommittee on Environmental Pollution held a hearing on reauthorizing this Act and two other statutes on March 19, 1979. On May 15 the Committee reported an original bill, S. 1146, providing for a three-year extension of authorizations under the Safe Drinking Water Act. The Senate approved this bill without amendment May 22, 1979. In the House, the Subcommittee on Health and the Environment of the Commerce Committee held a hearing on reauthorizing the Act on March 26, 1979. An original bill, H.R. 3509, was reported by the Committee May 15, 1979. Debate on this bill occurred July 30, 1979, and the House passed H.R. 3509 by a vote of 319-76. Subsequently, passage of H.R. 3509 was vacated, and S. 1146, amended, was passed in lieu. On August 3, 1979, the Senate agreed to the House amend-

ments to S. 1146. This bill was signed into law September 6, 1979 (Public Law 96-63).

The most recent amendments to the Safe Drinking Water Act were enacted December 5, 1980 (Public Law 96-502). During the 96th Congress the House Commerce Subcommittee on Health and the Environment held oversight hearings on the Act in November 1979, as well as June and August 1980. Issues raised in a number of pending legislative proposals were considered generally during these hearings. On September 19, 1980, the Committee on Interstate and Foreign Commerce reported a clean bill, H.R. 8117, which the House passed by voice vote September 23. The House-passed bill was referred to the Senate Committee on Environment and Public Works. That Committee held no hearings on the Safe Drinking Water Act during 1980 and did not report legislation comparable to H.R. 8117. On November 19, 1980, the Senate discharged the Committee from consideration of H.R. 8117 and passed the bill by voice vote without amendment.

CHAPTER I

THE SAFE DRINKING WATER ACT, AS AMENDED

96th Congress
2d Session

COMMITTEE PRINT

THE SAFE DRINKING WATER ACT

AS AMENDED BY PUBLIC LAW 96-63,
SEPTEMBER 6, 1979 AND PUBLIC LAW
96-502, DECEMBER 5, 1980

DECEMBER 1980

SERIAL NO. 96-20

Printed for the use of the Senate Committee on Environment and Public Works

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1980

CONTENTS

Section: Page

1—Short title 1
2—Public water systems 1

TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

PART A—DEFINITIONS

Section:
1401—Definitions 1

PART B—PUBLIC WATER SYSTEMS

Section:
1411—Coverage 3
1412—National drinking water regulations 3
1413—State primary enforcement responsibility 6
1414—Failure by State to assure enforcement of drinking water regulations 7
1415—Variances 10
1416—Exemptions 13

PART C—PROTECTION OF UNDERGOUND SOURCES OF DRINKING WATER

Section:
1421—Regulations for State programs 16
1422—State primary enforcement responsibility 18
1423—Failure of State to assure enforcement of program 20
1424—Interim regulation of underground injections 21
1425—Optional demonstration by States relating to oil or natural gas 22

PART D—EMERGENCY POWERS

Section:
1431—Emergency powers 23

PART E—GENERAL PROVISIONS

Section:
1441—Assurance of availability of adequate supplies of chemicals necessary for treatment of water 24
1442—Research, technical assistance, information, training of personnel 26
1443—Grants for State programs 30
1444—Special study and demonstration project grants; guaranteed loans 32
1445—Records and inspection 33
1446—National drinking water advisory council 35
1447—Federal agencies 35
1448—Judicial review 36
1449—Citizen's civil action 37
1450—General provisions 39

Section:
3—Rural water survey 41
4—Bottled drinking water 42

NOTE

Amendments made by Public Law 96–63 are shown as follows: Language to be omitted is struck through; new language is printed in italic; language in which there is no change is printed in roman.

Amendments made by Public Law 96–502 are shown as follows: Language to be omitted is in bold brackets. New language is shown in bold italic.

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after title XIII the following new title:

TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS[1]

PART A—DEFINITIONS

DEFINITIONS

SEC. 1401. For purposes of this title:

(1) The term "primary drinking water regulation" means a regulation which—

(A) applies to public water systems;

(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

(C) specifies for each such contaminant either—

(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaiminant in water in public water systems, or

(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maxi-

---

[1] Includes the Safe Drinking Water Act (42 U.S.C. 300f et seq.) P.L. 93–523, Dec. 16, 1974; the Safe Drinking Water Amendments of 1977, P.L. 95–190, Nov. 16, 1977; the Safe Drinking Water Act Amendments of 1979, P.L. 96–63, Sept. 6, 1979; and the Safe Drinking Water Act Amendments of 1980.

mum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

(2) The term "secondary drinking water regulation" means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

(3) The term "maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

(4) The term "public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primary in connection with such system.

(5) The term "supplier of water" means any person who owns or operates a public water system.

(6) The term "contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(7) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(8) The term "Agency" means the Environmental Protection Agency.

(9) The term "Council" means the National Drinking Water Advisory Council established under section 1446.

(10) The term "municipality" means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law

(11) The term "Federal agency" means any department, agency, or instrumentality of the United States.

(12) The term "person" means an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency).

(13) The term "State" includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

PART B—PUBLIC WATER SYSTEMS

COVERAGE

SEC. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) which does not sell water to any person; and

(4) which is not a carrier which conveys passengers in interstate commerce.

NATIONAL DRINKING WATER REGULATIONS

SEC. 1412. (a)(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

(3) The interim primary regulations first promulgated under paragraph (1) shall take effect eighteen months after the date of their promulgation.

(b)(1)(A) Within 10 days of the date of the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted

pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

(2) On the date the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1)(B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (1)(B) for such contaminant as is feabible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (1)(B) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term "feasible" means feasible with the use of the best technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques. and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 3 years.

(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect eighteen months after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

(6) No national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he

deems appropriate. Regulations under this subsection may be amended from time to time.

(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

(e)(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contamimant levels which should be recommended under subsection (b)(2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title, and revisions thereof reflecting new information which has become available since the most recent previous report shall be reported to the Congress each two years thereafter. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants that level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research; (G) periodic assessments and evaluations of unregulated contaminants which may require continuous monitoring or regulation.

(3) In developing its proposals for recommended maximum contaminant level under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

90-224 O - 82 - 2

(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (2) of this subsection.

STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

(1) has adopted drinking water regulations which (A) in the case of the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) in the case of the period after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a matter which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416; and

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination

will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons thereof and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and notify the applicant in writing of the reasons for his denial.

FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

SEC. 1414. (a)(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time.

(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

(i) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to subparagraph (A); and

(ii)(a) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence; or

(β) The State submits such report within such period but the Administrator, after considering the report, determines that the State abused its discretion in carrying out primary enforcement responsibility for public water systems by both—

(I) failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time, and

(II) failing to assure by such day the provision through alternative means of safe drinking water by the earliest feasible time:

the Administrator may commence a civil action under subsection (b).

(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule or other requirement imposed pursant thereto,

he may commence a civil action under subsection (b).

(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

(1) authorized under paragraph (1) or (2) of subsection (a), or

(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter, in an action brought under this subsection, such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies; and, if the court determines that there has been a willful violation of the regulation or schedule or other requirement with respect to which the action was brought, the court may, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, impose on the violator a civil penalty of not to exceed $5,000 for each day in which such violation occurs.

(c) Each owner or operator of a public water system shall give notice to the persons served by it—

(1) of any failure on the part of the public water system to—

(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

(B) perform monitoring required by section 1445(a), and

(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

(A) the existence of such variance or exemption, and

(B) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form, manner, and frequency for giving notice under this subsection. Notice under the first sentence of this subsection shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), shall be furnished to the other communications media serving such area, and shall be furnished to the communications media as soon as practicable after the discovery of the violation with respect to which the notice is required. If the water bills of a public water system are issued more often than once every 3 months such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. The Administrator may also require the owner or operator of a public water system to give notice to the persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 1445(a). Any person who willfully violates this subsection or regulations issued under this subsection shall be fined not more than $5,000.

(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation repecting drinking water regulations or public water systems, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

VARIANCES

SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction, which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the best technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph the State shall prescribe within one year of the date the variance is granted, a schedule for—

(i) compliance (including increments of progress) by the public water system with each contaminant level requirement with respect to which the variance was granted, and

(ii) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subparagraph may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and hearing held pursuant to such notice shall include each of the schedules covered by the notice. A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine).

(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provisions of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the

variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance (and in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

(D) Each public water system's variance granted by a State under subparagraph (A) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to that subparagraph. The requirements of each schedule prescribed by a State pursuant to that subparagraph shall be enforceable by the State under its laws. Any requirements of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under such subparagraph.

(F) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent review of variances and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other information concerning new scientific matters bearing on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

(G)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to prescribe schedules in accordance with subparagraph (A), the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variances were complied with. A notice under this clause shall—

(I) identify each public water system with respect to which the finding was made,

(II) specify the reasons for the finding, and

(III) as appropriate, propose revocations of specific variances or propose revised schedules or other requirements for specific public water systems granted variances, or both.

(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (1) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised schedules or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a schedule or other requirement for a variance and if, before a revocation of such variance or a revision of such schedule or other requirement promulgated by the Administrator take effect, the State takes corrective action with respect to such variance or schedule or other requirement which the Administrator determines makes his finding inapplicable to such variance or schedule or other requirement, the Administrator shall rescind the application of his finding to that variance or schedule or other requirement. No variance revocation or revised schedule or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule or other requirement was proposed.

(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect

to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

(b) Any schedule or other requirement on which a variance granted under paragraph (1)(B) or (2) of subsection (a) is conditioned may be enforced under section 1414 as if such schedule or other requirement was part of a national primary drinking water regulation.

(c) If an application for variance under subsection (a) is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

(d) For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

EXEMPTIONS

SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement,

(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement ***or for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system,*** and

(3) the granting of the exemption will not result in an unreasonable risk to health.

(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B)—

(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, [1981] ***1984;*** and

(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, [1983] ***1986;*** and

(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect

(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption (including the basis for the finding required by subsection (a)(3) before the exemption may be granted) and document the need for the exemption.

(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions

granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. In determining if a State has abused its discretion in granting exemptions in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the exemptions and if the requirements applicable to the granting of the exemptions were complied with. A notice under this paragraph shall—

(i) identify each exempt public water system with respect to which the finding was made,

(ii) specify the reasons for the finding, and

(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before

the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

(e) For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

(g) If an application for an exemption under this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

REGULATIONS FOR STATE PROGRAMS

SEC. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

(A) shall prohibit, [effective three years after the date of the enactment of this title] ***effective on the date on which the applicable underground injection control program takes effect,*** any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the

applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers drinking water sources;

(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

(D) shall apply (i) as prescribed by section 1447(b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

(2) Regulations of the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

(3)(A) The regulations of the Administrator under this section shall permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State.

(B)(i) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number of States.

(ii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed to disrupt a State underground injection control program only if it would be infeasible to comply with both such regulation and the State underground injection control program.

(iii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed unnecessary only if, without such regulation, underground sources of drinking water will not be endangered by any underground injection.

(C) Nothing in this section shall be construed to alter or affect the duty to assure that underground sources of drinking water will not be endangered by any underground injection.

(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)), but after reasonable notice and hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State finds, on the record of such hearing—

(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

(d) For purposes of this part:

(1) The term "underground injection" means the subsurface emplacement of fluids by well injection. ***Such term does not include the underground injection of natural gas for purposes of storage.***

(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.

(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

(d) For purposes of this title, the term "applicable underground injection control program" with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c)

FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) ***or section 1422(b)(3)*** that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such States is violating such requirement, he may commence a civil action under subsection (b)(1).

(b)(1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person

violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources (A) shall be subject to a civil penalty of not more than $5,000 for each day for such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (B), be fined not more than $10,000 for each day of such violation.

(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

INTERIM REGULATION OF UNDERGROUND INJECTIONS

SEC. 1424. (a)(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

(b)(1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

99-224 O - 82 - 3

(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

(c) Any person who operates a new underground injection well in violation of subsection (b), (1) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs, or (2) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (1) be fined not more than $10,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

(d) For purposes of this section, the term "new underground injection well" means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

OPTIONAL DEMONSTRATION BY STATES RELATING TO OIL OR NATURAL GAS

Sec. 1425. (a) For purposes of the Administrator's approval or disapproval under section 1422 of that portion of any State underground injection control program which relates to—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or,

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas.

in lieu of the showing required under subparagraph (A) of section 1422(b)(1) the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

(b) If the Administrator revises or amends any requirement of a regulation under section 1421 relating to any aspect of the underground injection referred to in subsection (a), in the case of that portion of a State underground injection control program for which the demonstration referred to in subsection (a) has been made, in lieu of the showing required under section 1422(b)(1)(B) the State may demonstrate that, with respect to that aspect of such underground injection, the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

(c)(1) Section 1422(b)(3) shall not apply to that portion of any State underground injection control program approved by the Administrator pursuant to a demonstration under subsection (a) of this section (and under subsection (b) of this section where applicable).

(2) If pursuant to such a demonstration, the Administrator approves such portion of the State program, the State shall have primary enforcement responsibility with respect to that portion until such time as the Administrator determines, by rule, that such demonstration is no longer valid. Following such a determination, the Administrator may exercise the authority of subsection (c) of section 1422 in the same manner as provided in such subsection with respect to a determination described in such subsections.

(3) Before promulgating any rule under paragraph (2), the Administrator shall provide opportunity for public hearing respecting such rule.

PART D—EMERGENCY POWERS

EMERGENCY POWERS

SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. The action which the Administrator may take may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) may, in an action brought in the appropriate United States district court to enforce such order, be fined no more than $5,000 for each day in which such violation occurs or failure to comply continues.

PART E—GENERAL PROVISIONS

ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

SEC. 1441. (a) If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a "certification of need") that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

(b)(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

(3) Within 30 days after—

(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

(c)(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributions and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

(A) the geographical relationship and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a temporary restraining order or preliminary or permanent injunction (including a mandatory injunction) to enforce the provisions of such order.

(f) No certification of need or order issued under this section may remain in effect—

(1) for more than one year, or

(2) after September 30, ~~1979~~ *1982*,

whichever occurs first.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, AND TRAINING OF PERSONNEL

SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

(B) improved methods to identify and measure the health effects of contaminants in drinking water;

(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

(E) improved methods of protecting underground water sources of public water systems from contamination.

(2) (A) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

(B) The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subparagraph shall be used only to support those actions which (i) are necessary for pre-

venting, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.

(3)(A) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

(B) Not later than eighteen months after the date of enactment of this subparagraph, the Administrator shall submit a report to Congress which identifies and analyzes—

(i) the anticipated costs of compliance with interim and revised national primary drinking water regulations and the anticipated costs to States and units of local governments in implementing such regulations;

(ii) alternative methods of (including alternative treatment techniques for) compliance with such regulations;

(iii) methods of paying the costs of compliance by public water systems with national primary drinking water regulations, including user charges, State or local taxes or subsidies, Federal grants (including planning or construction grants, or both), loans, and loan guarantees, and other methods of assisting in paying the costs of such compliance;

(iv) the advantages and disadvantages of each of the methods referred to in clauses (ii) and (iii);

(v) the sources of revenue presently available (and projected to be available) to public water systems to meet current and future expenses; and

(vi) the costs of drinking water paid by residential and industrial consumers in a sample of large, medium, and small public water systems and of individualiy owned wells, and the reasons for any differences in such costs.

The report required by this subparagraph shall identify and analyze the items required in clauses (i) through (v) separately with respect to public water systems serving small communities. The report required by this subparagraph shall include such recommendations as the Administrator deems appropriate.

(4) The Administrator shall conduct a survey and study of—

(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

(11) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.

(b) In carrying out this title, the Administrator is authorized to—

(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

(3) make grants to and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

(C) to develop and expand the capability of programs of State and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(c))).

(c) Not later than eighteen months after the date of enactment of this subsection, the Administrator shall submit a report to Congress on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data compiled by the National Water Commission and others shall be utilized to the extent possible.

(d) The Administrator shall—

(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies of units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

Reasonable fees may be charged for training provided under paragraph (1)(B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.

(e) The Administrator is authorized to make grants to a public water system which is required, under State or local law, to meet standards relating to drinking water turbidity which are more stringent than the standards in effect pursuant to this title. Such grants shall be used by the public water system for the development and demonstration (including construction and installation) of any water filtration system which will demonstrate a new or improved method of meeting such more stringent standards.

[(e)**]** *(f)* There are authorized to be appropriated to carry out the provisions of this section, other than subsection (a)(2)(B) and provisions relating to research, $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; $35,000,000 for the fiscal year ending June 30, 1977; ~~and~~ $17,000,000 for each of the fiscal years 1978 and 1979; *$21,405,000 for the fiscal year ending September 30, 1980; $30,000,000 for the fiscal year ending September 30, 1981; and $35,000,000 for the fiscal year ending September 30, 1982.* There are authorized to be appropriated to carry out subsection (a)(2)(B) $8,000,000 for each of the fiscal years 1978 ~~and 1979~~ *through 1982.*

GRANTS FOR STATE PROGRAMS

SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

(B) will, within that one year, assume primary enforcement responsibility for public water system within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed and maintained primary enforcement responsibility for public water systems within the State.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. No State shall receive less than 1 per centum of the annual appropriation for grants under paragraph (1): *Provided*, That the Administrator may by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further*, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

(A) the State is making diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under this paragraph may not exceed 75 per centum of the allotment which the State would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of

fiscal year 1980. At the beginning of each fiscal years 1979 and 1980 the amounts retained by the Administrator for any preceding fiscal year and not awarded by the beginning fiscal year 1979 or 1980 to the States to which such amounts were originally allotted may be removed from the original allotment and reallotted for fiscal year 1979 or 1980 (as the case may be) to States which have assumed primary enforcement responsibility by the beginning of such fiscal year.

(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section—

(A) within ninety days after receipt of such application, or

(B) not later than the first day of the fiscal year for which the grant application is made,

whichever is later.

(7) For the purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, $25,000,000 for the fiscal year ending June 30, 1977, $35,000,000 for fiscal year 1978, ~~and~~ $45,000,000 for fiscal year 1979, *$29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982.*

(b)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. [The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

[(A) has established or will establish within two years from the date of such grant an underground water source protection, and

[(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State. No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State.] ***No grant may be made to any State under paragraph (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 1421.***

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, $7,500,000 for the fiscal year ending June 30, 1977,

~~and~~ $10,000,000 for each of the fiscal years 1978 and 1979, *$7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982.*

(c) For purposes of this section:

(1) The term "public water system supervision program" means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

(2) The term "underground water source protection program" means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii). ***Such term includes, where applicable, a program which meets the requirements of section 1425.***

SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology, for providing a dependably safe supply of drinking water to the public; and

(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

(b) Grants made by the Administrator under this section shall be subject to the following limitations:

(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility, and 75 per centum of any other costs, as determined by the Administrator.

(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot reasonably obtain financial assistance necessary to comply with regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $50,000. The aggregate amount of indebtness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

RECORDS AND INSPECTIONS

SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, in administering any program of financial assistance under this title, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks.

(b)(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to (A) a national primary drinking water regulation prescribed under section 1412, (B) and applicable underground injection control program, or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a), or person in charge of any of the property of such supplier or other person referred to in clause (A), (B), or (C), is authorized to enter any establishment, facility, or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose,

inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

(2) No entry may be made under the first sentence of paragraph (1) in an establishment, facility, or other property of a supplier of water or other person subject to a national primary drinking water regulation if the establishment, facility, or other property is located in a State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. No State agency which receives notice under this paragraph of an entry proposed to be made under paragraph (1) may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; and if a State agency so uses such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice under this paragraph.

(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) may be fined not more than $5,000.

(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

(2) Any information required under this section (A) may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this title or to committees of the Congress, or when relevant in any proceeding under this title, and (B) shall be disclosed to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term "information required under this section" means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

(e) For purposes of this section, (1) the term "grantee" means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term "person" includes a Federal agency.

NATIONAL DRINKING WATER ADVISORY COUNCIL

SEC. 1446. (a) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at the rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) Section 14(a) of the Federal Advisory Committee Act relating to termination) shall not apply to the Council.

FEDERAL AGENCIES

SEC. 1447. (a) Each Federal agency (1) having jurisdiction over any federally owned or maintained public water system or (2) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421(d)(2)) shall be subject to, and comply with, all Federal, State, and local requirements, administrative authorities, and process and sanctions

respecting the provision of safe drinking water and respecting any underground injection program in the same manner, and to the same extent, as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process or sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply, notwithstanding any immunity of such agencies, under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty under this title with respect to any act or omission within the scope of his official duties.

(b) The Administrator shall waive compliance with subsection (a) upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

(c)(1) Nothing in the Safe Drinking Water Amendments of 1977 shall be construed to alter or affect the status of American Indian lands or water rights nor to waive any sovereignty over Indian lands guaranteed by treaty or statute.

(2) For the purposes of this Act, the term "Federal agency" shall not be construed to refer to or include any American Indian tribe, nor to the Secretary of the Interior in his capacity as trustee of Indian lands.

JUDICIAL REVIEW

SEC. 1448. (a) A petition for review of—

(1) action of the Administrator in promulgating any national primary drinking water regulation under section 1412, any regulation under section 1413(b)(1), any regulation under section 1414(c), any regulation for State underground injection control programs under section 1421, or any general regulation for the administration of this title may be filed only in the United States Court of Appeals for the District of Columbia Circuit; and

(2) action of the Administrator in promulgating any other regulation under this title, issuing any order under this title, or making any determination under this title may be filed only in the United States court of appeals for the appropriate circuit.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulation or issuance of the

order with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

(b) The United States district courts shall have jurisdiction of actions brought to review (1) the granting of, or the refusing to grant, a variance or exemption under section 1415 or 1416 or (2) the requirements of any schedule prescribed for a variance or exemption under such section or the failure to prescribe such a schedule. Such an action may only be brought upon a petition for review filed with the court within the 45-day period beginning on the date the action sought to be reviewed is taken or, in the case of a petition to review the refusal to grant a variance or exemption or the failure to prescribe a schedule, within the 45-day period beginning on the date action is required to be taken on the variance, exemption, or schedule, as the case may be. A petition for such review may be filed after the expiration of such period if the petition is based solely on grounds arising after the expiration of such period. Action with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

(c) In any judicial proceeding in which review is sought of a determination under this title required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

CITIZEN'S CIVIL ACTION

SEC. 1449. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement prescribed by or under this title, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator.

90-224 O - 82 - 4

No action may be brought under paragraph (1) against a public water system for a violation of a requirement prescribed by or under this title which occurred within the 27-month period beginning on the first day of the month in which this title is enacted. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce in an action brought under this subsection any requirement prescribed by or under this title or to order the Administrator to perform an act, or duty described in paragraph (2), as the case may be.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section respecting violation of a requirement prescribed by or under this title—

(A) prior to sixty days after the plaintiff has given notice of such violation (i) to the Administrator, (ii) to any alleged violator of such requirement and (iii) to the State in which the violation occurs, or

(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice required by this subsection shall be given in such manner as the Administrator shall prescribe by regulation. No person may commence a civil action under subsection (a) to require a State to prescribe a schedule under section 1415 or 1416 for a variance or exemption, unless such person shows to the satisfaction of the court that the State has in a substantial number of cases failed to prescribe such schedules.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this title or to seek any other relief. Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State or local government from—

(1) bringing any action or obtaining any remedy or sanction in any State or local court, or

(2) bringing any administrative action or obtaining any administrative remedy or sanction,

against any agency of the United States under State or local law to enforce any requirement respecting the provision of safe drinking

water or respecting any underground injection control program. Nothing in this section shall be construed to authorize judicial review of regulations or orders of the Administrator under this title, except as provided in section 1448. For provisions providing for application of certain requirements to such agencies in the same manner as to nongovernmental entities, see section 1447.

GENERAL PROVISIONS

SEC. 1450. (a)(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

(d)(1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term "nonprofit agency or institution" means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

(h) Not later than April 1 of each year, the Administrator shall submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he con-

siders necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to such committees of Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to such committees of Congress its comments respecting any such report.

(i)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this title or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State.

(B) testified or is about to testify in any such proceeding, or

(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the

compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code.

(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title.

[NOTE: The following is not part of Title XIV, United States Code. The Public Health Service Act.]

(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted not later than six months after the completion of such survey, to the President and to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; $1,000,000 for the fiscal year ending June 30, 1977; and $1,000,000 for each of fiscal years 1978 and 1979.

BOTTLED DRINKING WATER

SEC. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

BOTTLED DRINKING WATER STANDARDS

SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.

CHAPTER II

PUBLIC LAW 96-502 (AMENDMENTS TO THE SAFE DRINKING WATER ACT); SENATE DEBATE: NOVEMBER 19, 1980; H.R. 8117, AS REPORTED, SEPTEMBER 19, 1980; HOUSE REPORT (96-1348); HOUSE DEBATE, SEPTEMBER 22-23, 1980

Public Law 96-502
96th Congress

An Act

To amend the Safe Drinking Water Act, and for other purposes.

Dec. 5, 1980
[H.R. 8117]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safe Drinking Water Act, amendment.
42 USC 300g-5.

SECTION 1. Section 1416(b)(2) of the Public Health Service Act is amended by striking out "1981" in subparagraph (A)(i) thereof and substituting "1984" and by striking out "1983" in subparagraph (B)(i) thereof and substituting "1986".

SEC. 2. (a) Part C of title XIV of the Public Health Service Act is amended by adding the following at the end thereof:

"OPTIONAL DEMONSTRATION BY STATES RELATING TO OIL OR NATURAL GAS

42 USC 300h-4.
41 USC 300h-1.

"SEC. 1425. (a) For purposes of the Administrator's approval or disapproval under section 1422 of that portion of any State underground injection control program which relates to—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

in lieu of the showing required under subparagraph (A) of section 1422(b)(1) the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

42 USC 300h.

"(b) If the Administrator revises or amends any requirement of a regulation under section 1421 relating to any aspect of the underground injection referred to in subsection (a), in the case of that portion of a State underground injection control program for which the demonstration referred to in subsection (a) has been made, in lieu of the showing required under section 1422(b)(1)(B) the State may demonstrate that, with respect to that aspect of such underground injection, the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

42 USC 300h-1.
42 USC 300h.

"(c)(1) Section 1422(b)(3) shall not apply to that portion of any State underground injection control program approved by the Administrator pursuant to a demonstration under subsection (a) of this section (and under subsection (b) of this section where applicable).

"(2) If pursuant to such a demonstration, the Administrator approves such portion of the State program, the State shall have primary enforcement responsibility with respect to that portion until such time as the Administrator determines, by rule, that such

Enforcement.

demonstration is no longer valid. Following such a determination, the Administrator may exercise the authority of subsection (c) of section
42 USC 300h-1. 1422 in the same manner as provided in such subsection with respect to a determination described in such subsection.

Rules. "(3) Before promulgating any rule under paragraph (2), the Administrator shall provide opportunity for public hearing respecting such rule.".

42 USC 300h-2. (b) Section 1423(a)(1) of such Act is amended by inserting after "(within the meaning of section 1422(b)(3)" the following: "or section 1425(c)".

42 USC 300j-2. (c) Section 1443(c)(2) of title XIV of the Public Health Service Act is amended by inserting the following at the end thereof: "Such term includes, where applicable, a program which meets the requirements of section 1425.".

42 USC 300h. SEC. 3. Section 1421(d)(1) of the Public Health Service Act is amended by adding the following at the end thereof: "Such term does not include the underground injection of natural gas for purposes of storage.".

42 USC 300g-4. SEC. 4. (a) Section 1415 of the Public Health Service Act is amended by inserting the following section heading at the beginning of such section: "Variances".

42 USC 300g-5. (b) Section 1416(a)(2) of the Public Health Service Act is amended by inserting immediately after "requirement," the following: "or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system,".

42 USC 300h. (c) Section 1421(b)(1)(A) of the Public Health Service Act is amended by striking out "effective three years after the date of the enactment of this title," and inserting in lieu thereof the following: "effective on the date on which the applicable underground injection control program takes effect,".

42 USC 300j-2. (d) Section 1443(b)(2) of the Public Health Service Act is amended by striking out the second and third sentences therein and inserting in lieu thereof the following: "No grant may be made to any State under paragraph (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 1421.".

42 USC 300j-1. SEC. 5. Section 1442 of title XIV of the Public Health Service Act is amended by inserting the following new subsection after subsection (d) and by redesignating subsection (e) as (f):

"(e) The Administrator is authorized to make grants to a public water system which is required, under State or local law, to meet standards relating to drinking water turbidity which are more stringent than the standards in effect pursuant to this title. Such grants shall be used by the public water system for the development and demonstration (including construction and installation) of any water filtration system which will demonstrate a new or improved method of meeting such more stringent standards.". Grants.

Approved December 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1348 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 22, 23, considered and passed House.
Nov. 19, considered and passed Senate.

NOTE

H.R. 8117, amendments to the Safe Drinking Water Act, was signed into law by President Carter, December 5, 1980 (Public Law 96–502).

On September 19, 1980, the House Committee on Interstate and Foreign Commerce reported a clean bill after holding oversight hearings and generally considering a number of legislative issues. The House passed this bill, H.R. 8117, by voice vote, September 23, 1980. The Senate Committee on Environment and Public Works held no hearings on the Safe Drinking Water Act during 1980 and did not report a complimentary bill to H.R. 8117. The House-passed bill was referred to that Committee. On November 19, 1980, the Senate discharged the Committee from consideration of H.R. 8117 and passed the bill without amendment by voice vote.

Union Calendar No. 817

96TH CONGRESS
2D SESSION

H. R. 8117

[Report No. 96–1348]

To amend the Safe Drinking Water Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 1980

Mr. WAXMAN (for himself, Mr. CARTER, Mr. GRAMM, Mr. STAGGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. LUKEN, Mr. WALGREN, Mr. SHELBY, Mr. MURPHY of New York, Mr. SANTINI, Mr. TRAXLER, Mr. BEDELL, Mr. BROYHILL, Mr. DEVINE, Mr. STOCKMAN, Mr. LEE, Mr. MCCLORY, Mr. PASHAYAN, and Mr. DANNEMEYER), introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

SEPTEMBER 19, 1980

Additional sponsors: Mr. CORCORAN, Mr. HYDE, Mr. MARLENEE, Ms. MIKULSKI, and Mr. DERWINSKI

SEPTEMBER 19, 1980

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Insert the part printed in italic]

A BILL

To amend the Safe Drinking Water Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1416(b)(2) of the Public Health Service Act is amended by striking out "1981" in subparagraph (A)(i) thereof and substituting "1984" and by striking out "1983" in subparagraph (B)(i) thereof and substituting "1986".

SEC. 2. (a) Part C of title XIV of the Public Health Service Act is amended by adding the following at the end thereof:

"OPTIONAL DEMONSTRATION BY STATES RELATING TO OIL OR NATURAL GAS

"SEC. 1425. (a) For purposes of the Administrator's approval or disapproval under section 1422 of that portion of any State underground injection control program which relates to—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary of tertiary recovery of oil or natural gas,

in lieu of the showing required under subparagraph (A) of section 1422(b)(1) the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and

reporting) to prevent underground injection which endangers drinking water sources.

"(b) If the Administrator revises or amends any requirement of a regulation under section 1421 relating to any aspect of the underground injection referred to in subsection (a), in the case of that portion of a State underground injection control program for which the demonstration referred to in subsection (a) has been made, in lieu of the showing required under section 1422(b)(1)(B) the State may demonstrate that, with respect to that aspect of such underground injection, the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

"(c)(1) Section 1422(b)(3) shall not apply to that portion of any State underground injection control program approved by the Administrator pursuant to a demonstration under subsection (a) of this section (and under subsection (b) of this section where applicable).

"(2) If pursuant to such a demonstration, the Administrator approves such portion of the State program, the State shall have primary enforcement responsibility with respect to that portion until such time as the Administrator determines, by rule, that such demonstration is no longer valid. Following

such a determination, the Administrator may exercise the authority of subsection (c) of section 1422 in the same manner as provided in such subsection with respect to a determination described in such subsection.

"(3) Before promulgating any rule under paragraph (2), the Administrator shall provide opportunity for public hearing respecting such rule.".

(b) Section 1423(a)(1) of such Act is amended by inserting after "(within the meaning of section 1422(b)(3)" the following: "or section 1425(c)".

(c) Section 1443(c)(2) of title XIV of the Public Health Service Act is amended by inserting the following at the end thereof: "Such term includes, where applicable, a program which meets the requirements of section 1425.".

SEC. 3. Section 1421(d)(1) of the Public Health Service Act is amended by adding the following at the end thereof: "Such term does not include the underground injection of natural gas for purposes of storage.".

SEC. 4. (a) Section 1415 of the Public Health Service Act is amended by inserting the following section heading at the beginning of such section: "Variances".

(b) Section 1416(a)(2) of the Public Health Service Act is amended by inserting immediately after "requirement," the following: "or, for a system that was not in operation by that

date, only if no reasonable alternative source of drinking water is available to such new system,".

(c) Section 1421(b)(1)(A) of the Public Health Service Act is amended by striking out "effective three years after the date of the enactment of this title," and inserting in lieu thereof the following: "effective on the date on which the applicable underground injection control program takes effect,".

(d) Section 1443(b)(2) of the Public Health Service Act is amended by striking out the second and third sentences therein and inserting in lieu thereof the following: "No grant may be made to any State under paragraph (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 1421.".

SEC. 5. Section 1442 of title XIV of the Public Health Service Act is amended by inserting the following new subsection after subsection (d) and by redesignating subsection (e) as (f):

"(e) The Administrator shall make grants to a public water system which is required, under State or local law, to meet standards relating to drinking water turbidity which are more stringent than the standards in effect pursuant to this title. Such grants shall be used by the public water

system for the development and demonstration (including construction and installation) of any water filtration system which will demonstrate a new or improved method of meeting such more stringent standards.".

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 96-1348

SAFE DRINKING WATER ACT AMENDMENTS

SEPTEMBER 19, 1980.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WAXMAN, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 8117]

[Including cost estimate of the Congressional Budget Office]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 8117) to amend the Safe Drinking Water Act, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 4, after line 6, insert:

(c) Section 1443(c)(2) of title XIV of the Public Health Service Act is amended by inserting the following at the end thereof: "Such term includes, where applicable, a program which meets the requirements of section 1425.".

Page 5, after line 8, insert the following new section:

SEC. 5. Section 1442 of title XIV of the Public Health Service Act is amended by inserting the following new subsection after subsection (d) and by redesignating subsection (e) as (f):

"(e) The Administrator shall make grants to a public water system which is required, under State or local law, to meet standards relating to drinking water turbidity which are more stringent than the standards in effect pursuant to this title. Such grants shall be used by the public water system for the development and demonstration (including construction and installation) of any water filtration system which will demonstrate a new or improved method of meeting such more stringent standards.".

90-224 O - 82 - 5

Purpose and Summary

In 1974, Congress passed the Safe Drinking Water Act (Public Law 93–523). That Act directed the Administrator of the Environmental Protection Agency to establish (i) national drinking water supply standards to protect public health and (ii) minimum requirements for state programs to prevent underground injection that endangers drinking water sources. The Act permitted States to assume primary responsibility for implementation and enforcement of both programs. The Act was amended in 1977 (Public Law 95–190) and 1979 (Public Law 96–63) to extend authorizations for various programs and to make technical changes.

During this Congress, the Committee has been deeply involved in issues relating to ensuring a safe supply of drinking water. The Subcommittee on Health and the Environment held a field hearing in Chicago, Illinois, on November 5, 1979, on barium levels in drinking water and held a field hearing in Pittsburgh, Pennsylvania on June 6, 1980, on drinking water problems in Western Pennsylvania. The Subcommittee also held hearings on June 9, 1980, and August 18, 1980, on the problems of small systems and on EPA's underground injection control program respectively, as well as a joint hearing with the Subcommittee on Transportation and Commerce on August 22, 1980, on hazardous waste and drinking water. The latter Subcommittee and the Subcommittee on Oversight and Investigation have also held extensive hearings, particularly on protecting drinking water sources from improper transport and disposal of hazardous waste.

Many difficult and important issues were raised in these hearings. The Committee does not purport to have comprehensively dealt with these issues in the reported bill. Rather, the Committee has confined itself in this legislation to proposing amendments to the Safe Drinking Water Act that are immediately needed to adjust deadlines, to improve Federal-State coordination, or to modify program coverage. The Committee intends in the next Congress to undertake further oversight over the Act and to recommend such changes as may be advisable. In the interim, the Committee urges the Administrator to take steps to deal with the many concerns expressed in the current oversight hearings.

The bill as reported consists of five sections. Section 1 extends for three years the power of the States to grant temporary case-by-case exemptions from the interim primary drinking water regulations. Section 2 provides an alternative means for states to receive primary enforcement authority to regulate underground injection related to oil and gas production and recovery. Section 3 deletes the underground storage of natural gas from the underground injection program. Section 4 makes various technical changes in the Act. Section 5 authorizes the Administrator to make grants to a single public water system for the purpose of developing and demonstrating a new or improved means of meeting state turbidity standards that are stricter than standards in effect under this Act.

Legislative Background

H.R. 8117 was introduced by Mr. Waxman, Chairman of the Subcommittee on Health and the Environment on September 15, 1980, and co-sponsored by Mr. Carter, Mr. Gramm, Mr. Staggers, Mr. Satterfield,

Mr. Preyer, Mr. Luken, Mr. Walgren, Mr. Shelby, Mr. Murphy of New York, Mr. Santini, Mr. Traxler, Mr. Bedell, Mr. Broyhill, Mr. Devine, Mr. Stockman, Mr. Dannemeyer, Mr. Lee, Mr. McClory, and Mr. Pashayan. The bill was considered by the Interstate and Foreign Commerce Committee on September 17, 1980, amended, and ordered reported by unanimous voice vote.

Committee Proposal and Section-by-Section Analysis

Section 1 extends for three years the authority of the States to exempt temporarily public water supply systems from the interim primary drinking water regulations promulgated by the Administrator. These regulations became effective on June 24, 1977 (and amended thereafter) to protect public health to the extent feasible. Under the Act, systems that are unable to comply immediately due to compelling factors (including economic factors) may obtain relief only by receiving an exemption from the State (or, in the case of a system located in a State that has not taken primary enforcement responsibility for the public water supply system program, from the Administrator).[1]

Under the Act, exemptions from the interim standards may extend only until January 1, 1981 (January 1, 1983, for systems that intend to regionalize). Representatives of the Environmental Protection Agency testified before the Subcommittee on Health and the Environment that 81% of the 61,000 community public water supply systems are now meeting the interim standards. But at least 13,600 systems—most serving fewer than 2,500 people each—are in violation of one or more of these standards and will not meet the statutory deadlines. In the great majority of these cases, noncompliance has been caused by lack of adequate leadtime or financial resources to meet the statutory deadline. Of the projected 13,600 systems in violation, it is estimated that 10,300 should be able to meet the standards using local resources, while the remainder will need outside assistance.

The Committee proposes allowing states to grant, on a case-by-case basis, additional time for systems to achieve the interim standards. Such case-by-case exemptions may extend no longer than January 1, 1984 (January 1, 1986 for systems that intend to regionalize). The Committee expects that most, if not all, systems will be able during this period to comply with the requirements of the interim standards. The additional exemption period permitted by this amendment will allow orderly planning of needed improvements and permit exploration of all available sources of funding, such as throught the Small Business Administration and the Farmers Home Administration. In some instances, the additional exemption period will allow EPA to conduct further studies, where appropriate, to corroborate interim standards whose validity has been questioned to minimize the possi-

[1] Some confusion is occasionally caused by the practice of some states of referring to an exemption as a variance. Under the Act a variance is a totally different device from an exemption. Variances may be granted only to systems which, because of characteristics of their raw water supplies, either (i) do not need to apply a treatment technology to protect public health or (ii) are unable to meet a primary drinking water regulation. Variances are not intended to be used in situations in which economic factors are the bar to compliance, and the Committee intends the granting of variances to be strictly confined to the above circumstances.

bility that systems will be forced to expend substantial sums to meet standards for which no scientific justification exists.[2]

The Committee wishes to emphasize in the strongest possible terms that the extension of the states' authority to exempt systems from the interim standards should not be interpreted as an invitation to slacken efforts to meet the interim standards. The Committee's proposal retains unchanged the requirement of present law that exemptions be granted on a case-by-case basis and only to those systems that are unable, due to economic factors, to comply immediately. All exemptions are to require compliance by the exempted system as soon as practicable, and require increments of progress by the exempted systems. Thus the Committee urges States, wherever feasible, to assure compliance well in advance of the January 1, 1984 (or, where applicable, January 1, 1986) date.

In setting compliance dates, the state should require each noncomplying system to perform appropriate engineering studies to determine feasible compliance alternatives. These studies should be used by the State to set a final compliance date that gives due regard to the individual circumstances of each system. The Committee does not believe that whether a system is privately- or publicly-owned is relevant in determining this date. Until the standards are attained, the Committee believes that noncomplying systems should take appropriate interim steps to reduce any risk to public health (e.g. supplying bottled water to families where appropriate) and notify customers of the violation as required by the Act. If these steps are implemented in good faith, the Committee expects that it will not be necessary for EPA to exercise its authority to revoke exemptions or whether an exemption is granted.

The Committee also wishes to stress that the extension of the States' authority to grant exemptions from the interim standards does not diminish the Administrator's power to act in cases of emergency under Section 1431 of the Act. The Committee expects that the Administrator will act in such circumstances to eliminate any imminent risk of harm to the public health. The Committee emphasizes that, as stated in H. Rept. 93–1185, only the risk of harm, and not the harm itself, need the imminent to authorize action by the Administrator under this section. When emergency actions are taken under this Section, every effort should be made to ensure adequate alternative supplies at no greater cost and inconvenience to users.

Section 2 of the bill provides an alternative means for States to acquire primary enforcement responsibility for the control of underground injection related to the recovery and production of oil and natural gas.

On July 24, 1980, the Administrator established minimum requirements for State programs to prevent underground injection that endangers drinking water supplies. Under the Act, a State may receive primary enforcement responsibility to implement and enforce these regulations upon a timely showing to the Administrator that the State

[2] The Committee wishes to emphasize also the importance of efforts to develop standards for the many organic chemicals that may be present in drinking water. The Committee urges that these substances be of the object of intensive efforts to develop valid standards to protect public health. The need to review existing standards does not imply that new standards should not be established as appropriate.

has adopted and will implement an underground injection control program which meets the requirements of the Administrator's regulations. Under the statutory scheme, a State's program (or, in cases in which the State fails to make a satisfactory showing, a program prescribed by the Administrator) will take effect no later than July 24, 1982.

Most of the 32 states that regulate underground injection related to the recovery or production of oil or natural gas (or both) believe they have programs already in place that meet the minimum requirements of the Act including the prevention of underground injection which endangers drinking water sources. This is especially true of the major producing states where underground injection control programs have been underway for years. It is the Committee's intent that states should be able to continue these programs unencumbered with additional Federal requirements if they demonstrate that they meet the requirements of the Act.

The Committee thus proposes to allow any State, in lieu of meeting the Administrator's regulations, to assume primacy for controlling underground injection related to oil and gas recovery and production by demonstrating that its program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) (which relate to prohibiting injection not authorized by rule or permit on or after the date the program is approved, requiring that no injection be permitted or authorized that endangers drinking water sources, establishing inspection, monitoring, record-keeping and reporting requirements and applying the program to injection by Federal agencies and to all injection whether or not occurring on property owned or leased by the United States) and represents an effective program (including adequate record-keeping and reporting to the Administrator) [3] to prevent underground injection which endangers drinking water sources. These requirements are the same as must be met by the Administrator in establishing his regulations, thus ensuring that a State program pursuant to an alternative demonstration results in an equivalent degree of protection for drinking water sources. The Committee expects that alternative demonstrations will be submitted on the same schedule as demonstrations required for state programs meeting Federal regulations promulgated under Section 1421(b). Before acting on any alternative under this section, the Administrator must provide opportunity for public hearing and comment.

The Committee does not seek to place an impossible burden on either the States or the Administrator. Rather, the Committee expects that the States will present information to show the effectiveness of their proposed alternative programs. So long as the statutory requirements are met, the States are not obligated to show that their programs mirror either procedurally or substantively the Administrator's regulations. The demonstration required by a state would be comparable to the demonstration required of the Administrator in promulgating regulations under Section 1421(b). Judicial review of the Administrator's determination is in accordance with Section 1448(a) of the Act.

---

[3] EPA as part of its continual responsibility to monitor approved programs is entitled to have reasonable access to any and all reports, records and data collected by the state. In addition the state must submit an annual report to EPA which includes an account of all complaints received by the state and the action taken on them.

Under certain circumstances, the Administrator will be able to require a new demonstration pertaining to certain aspects of a State program. A State could be required to renew its approved alternative program upon revision or amendment by the Administrator of regulations pertaining to underground injection relating to oil and natural gas. The Committee expects that such demonstrations will be required when the amended regulations are deemed necessary to meet the minimum requirements of Section 1421(b). A new demonstration may also be required if the Administrator determines, by rule after public hearing, that a State's demonstration is no longer adequate. This authority is intended for use by the Administrator in instances in which a State significantly alters a program for which a demonstration has been made, or in which the Administrator determines that new information about the endangerment of drinking water supplies necessitates a new demonstration.

A State which has made an alternative demonstration will be considered to have the same primary enforcement powers and obligations as a State that achieved primacy by adopting the Administator's regulations. States making alternative demonstraitons are thus eligible for grant funds under Section 1443; State rules and permit requirements are, in certain instances, federally enforceable under Section 1423; and the Administrator may assume enforcement of a State program under Section 1423 if he finds that the State is failing to carry out its program.

Section 3 of the bill deletes the underground storage of natural gas from the statutory definition of underground injection. As proposed, the Administrator's regulations for underground injection control programs required that new and existing natural gas storage facilities meet certain construction and monitoring requirements. Persuaded that sufficient evidence does not exist indicating that natural gas storage poses a threat to drinking water quality and recognizing that storage operators have an economic incentive to prevent gas leakages, the Administrator in his final regulations deleted these requirements, but mandated that natural gas storage be further studied for a three-year period to determine the need for regulation. This latter mandate was motivated in large part by the Administrator's belief that all forms of underground injection must be in some way regulated under the Act.

As a result, the natural gas storage industry is still faced with the possibility of Federal regulation. This possibility could well discourage needed expansions of storage facilities to meet the needs of areas with substantial demands for natural gas. The Committee believes that this uncertainty about future regulation is undesirable, given the lack of evidence tending to show that gas storage may pose a risk to health.

The Committee thus proposes to remove natural gas storage from the definition of underground injection. This exclusion is not intended to exempt from regulation underground injection other than gas storage which may be undertaken by gas storage operators. In addition, the exclusion applies only to natural gas as it is commonly defined, and not to other injections of matter in a gaseous state. Finally, the Committee does not intend to preclude the Administrator from studying gas storage further, and from recommending legislative modification should credible evidence indicate that natural gas storage may in some way pose a threat to drinking water quality and thus to public health.

Section 4 makes various technical alterations to the Safe Drinking Water Act.

Section 4(a) inserts an inadvertently omitted section heading at the beginning of Section 1415.

Section 4(b) allows exemptions to be granted by states to systems that were not in operation when the requirement for which the exemption is granted took effect. To obtain such an exemption, a system would have to show that no alternative source is reasonably available. All other criteria for and limitations upon exemptions would apply to such exempted systems. The purpose of this amendment is to allow newly-formed systems to obtain exemptions in instances in which immediate application of the standard would result in the closing of the systems, a result that is at variance with the philosophy of the Safe Drinking Water Act.

Section 4(c) and 4(d) both pertain to the underground injection control program. Section 4(c) allows States to continue their existing underground injection control programs pending approval or disapproval of their program by the Administrator. Section 4(d) extends the eligibility of States to receive grant funding under Section 1443 for underground water source protection programs.

Section 5 authorizes the Administrator, at his discretion, to make grants pursuant to Section 1442 of the Act to a public water system which is required, under State or local law, to meet standards relating to drinking water turbidity which are more stringent than standards promulgated under the Safe Drinking Water Act. The grants may be used by the system for the development and demonstration (including construction or installation) of any water filtration system which will demonstrate a new or improved method of meeting such more stringent standards. The Committee emphasizes that it does not intend such grants to be made to more than a single public water supply system nor does the Committee intend that this provision constitute an additional authorization over and above that previously provided to carry out Section 1442. This provision does not reflect dissatisfaction with the national turbidity standard but was intended to remedy a hardship case.

Cost Estimate

The Committee concurs with the cost estimate of the Congressional Budget office included herein.

Inflationary Analysis

The Committee does not expect the present legislation to have any inflationary impact.

Agency Reports

The Committee has received no reports from agencies regarding this legislation.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., September 19, 1980.

Hon. Harley O. Staggers,
Chairman, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed

H.R. 8117, a bill to amend the Safe Drinking Water Act, and for other purposes, as ordered reported by the House Committee on Interstate and Foreign Commerce, September 17, 1980.

The bill makes a number of amendments which alter the existing requirements states must meet in implementing safe drinking water programs. These provisions are not expected to result in any significant cost to the Federal Government.

H.R. 8117 also directs the Administrator of EPA to make grants to a public water system that is required by state or local law to meet certain specific standards more stringent than those prescribed by Federal law. Should this bill be enacted, funds for carrying out this provision would fall under the existing authorization. The only public water system that is currently known to meet the specific requirements of this bill is in the Village of Cayuga, New York. If this particular water system were to receive the grants as directed in this provision, approximately $250,000 would have to be allocated for this purpose, to be spent over a 12-month period.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

* * * * * * *

TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT

SAFETY OF PUBLIC WATER SYSTEMS

* * * * * * *

PART B—PUBLIC WATER SYSTEMS

* * * * * * *

VARIANCES

SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

(1)(A) * * *

* * * * * * *

EXEMPTIONS

SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement,

(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement, *or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system*, and

* * * * * * *

(b)(1) * * *

(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, [1981] *1984*; and

* * * * * * *

(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, [1983] *1986;* and

* * * * * * *

PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

REGULATIONS FOR STATE PROGRAMS

SEC. 1421. (a)(1) * * *

* * * * * * *

(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

(A) shall prohibit, [effective three years after the date of the enactment of this title,] *effective on the date on which the applicable underground injection control program takes effect*, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

* * * * * * *

(d) For purposes of this part:

(1) The term "underground injection" means the subsurface emplacement of fluids by well injection. *Such term does not include the underground injection of natural gas for purposes of storage.*

* * * * * * *

FAILURE OF STATE TO ASSURE ENFORCMENT OF PROGRAM

SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3) *or section 1425(c)*) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources.

the Administrator may commence a civil action under subsection (b)(1).

OPTIONAL DEMONSTRATION BY STATES RELATING TO OIL OR NATURAL GAS

* * * * * * *

SEC. 1425. (a) For purposes of the Administrator's approval or disapproval under section 1422 of that portion of any State underground injection control program which relates to—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(2) any underground injection for the secondary of tertiary recovery of oil or natural gas,

in lieu of the showing required under subparagraph (A) of section 1422(b)(1) the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

(b) If the Administrator revises or amends any requirement of a regulation under section 1421 relating to any aspect of the underground injection referred to in subsection (a), in the case of that portion of a State underground injection control program for which the demonstration referred to in subsection (a) has been made, in lieu of the showing required under section 1422(b)(1)(B) the State may demonstrate that, with respect to that aspect of such underground injection, the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

(c)(1) Section 1422(b)(3) shall not apply to that portion of any State underground injection control program approved by the Administrator pursuant to a demonstration under subsection (a) of this section (and under subsection (b) of this section where applicable).

(2) If pursuant to such a demonstration, the Administrator approves such portion of the State program, the State shall have primary enforcement responsibility with respect to that portion until such time as the Administrator determines, by rule, that such demonstration is no longer valid. Following such a determination, the Administrator may exercise the authority of subsection (c) of section 1422 in the same manner as provided in such subsection with respect to a determination described in such subsection.

(3) Before promulgating any rule under paragraph (2), the Administrator shall provide opportunity for public hearing respecting such rule.

* * * * * * *

PART E—GENERAL PROVISIONS

* * * * * * *

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 1442. (a)(1) * * *

* * * * * * *

(e) The Administrator shall make grants to a public water system which is required, under State or local law, to meet standards relating to drinking water turbidity which are more stringent than the standards in effect pursuant to this title. Such grants shall be used by the public water system for the development and demonstration (including construction and installation) of any water filtration system which will demonstrate a new or improved method of meeting such more stringent standards.

[(e)](*f*) There are authorized to be appropriated to carry out the provisions of this section other than subsection (a) (2) (B) and provisions relating to research $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; $35,000,000 for the fiscal year ending June 30, 1977; $17,000,000 for each of the fiscal years 1978 and 1979; $21,405,000 for the fiscal year ending September 30, 1980; $30,000,000 for the fiscal year ending September 30, 1981; and $35,000,000 for the fiscal year ending September 30, 1982. There are authorized to be appropriated to carry out subsection (a) (2) (B) $8,000,000 for each of the fiscal years 1978 through 1982.

GRANTS FOR STATE PROGRAMS

SEC. 1443. (a) (1) * * *

* * * * * * *

(b) (1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. [The Administrator may not approve an application of a State for its grant under paragraph (1) unless he determines that the State—

[(A) has established or will establish within two years from the date of such grant an underground water source protection, and

[(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintain primary enforcement responsibility for underground water sources within the State.] *No grant may be made to any State under paragraph (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 1421.*

* * * * * * *

(c) For purposes of this section:

(1) The term "public water system supervision program" means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less

stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

(2) The term "underground water source protection program" means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii). *Such term includes, where applicable, a program which meets the requirements of section 1425.*

* * * * * * *

[From the Congressional Record, Nov. 19, 1980]

SENATE DEBATE ON H.R. 8117

Mr. BURDICK. Mr. President, I move that the Committee on Environment and Public Works be discharged from further consideration of H.R. 8117 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8117) to amend the Safe Drinking Water Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Dakota?

There being no objection, the Senate proceeded to consider the bill.

Mr. BURDICK. Mr. President, H.R. 8117 makes some urgently needed technical amendments in the Safe Drinking Water Act. These amendments change none of the basic and major aspects of this important act but will allow necessary flexibility in its administration so that those goals may eventually be met.

The first section will extend the authority of States to exempt temporarily from interim drinking water regulations those public water supply systems that may be encountering difficulty in achieving compliance with existing timetables. This will be especially important for smaller systems that must undergo more far reaching changes if these standards are to be met.

Section 2 deals with underground injection involved in the recovery and production of oil and gas. **[Secs. 1423(a), 1425, 1443(c) SDWA]** The administration has established minimum requirements for the control of such procedures and a State may assume enforcement responsibility by demonstrating it has in place a control program that satisfies these requirements. The amendment here would allow States which have already in place control programs of this sort to demonstrate that capability without having to meet all of the specific regulations that have been proposed. This alternative demonstration will insure an equal degree of protection but will not place a further level of administrative burden on States. Furthermore, there must still be public hearing and comment before the Administrator may accept such an alternative proposal.

Section 3 removes the underground storage of natural gas from the statutory definition of underground injection. **[Sec. 1421(d) SDWA]** It has already been determined that such storage does not present a threat to safe drinking water, but despite these findings, the possibility of regulation yet exists. This section prevents unnecessary further demand in this area from being placed on a portion of industry that does not ultimately enter the field of circumstances which the act intends to address.

Given the nature of these technical amendments, Mr. President, and the fact that unless we move to adopt them a great deal of needless administrative complication may ensue, I encourage Senators to join me in seeking passage of H.R. 8117 so that these minor, yet valuable, changes may take effect.

Mr. RANDOLPH. Mr. President, I join my able colleague from North Dakota (Mr. Burdick) in supporting the passage of this legislation to amend the Safe Drinking Water Act.

H.R. 8117 was referred to the Senate Committee on Environment and Public Works on September 24 of this year. It will primarily extend the length of time in which States can exempt certain drinking water systems from the approaching January 1, 1981, deadline for compliance with the interim national primary drinking water regulations. **[Sec. 1; 1416(b) SDWA]**

Over the past year, I have been made acutely aware of the problems that many systems, particularly those in small communities, have had in trying to reach this deadline. I have heard my colleagues from Iowa, Illinois, South Carolina, and other States tell me many water systems, especially the ones in small communities, desperately need additional time to accomplish the goals set forth by the Federal standards. West Virginia communities also need a delay in the deadline.

Many small communities are making good progress. But also, in order for the real intent of the law to be attained, additional time is necessary for those who are still seeking the resources to upgrade their systems. The measure before us would enable the States to grant exemptions on a case-by-case basis until January 1, 1984.

A second significant provision of this measure would exempt natural gas storage wells from the statutory definition of underground injection. **[Sec. 3; Sec. 1421(d) SDWA]** There is no evidence at this time that underground natural gas storage poses a hazard to underground sources of drinking water. This section of the bill will effectively delete the practice of storing natural gas from the underground injection control program regulations.

A third provision of the legislation facilitate State underground injection control programs for oil and gas operations. Under present law, State programs must satisfy Environmental Protection Agency regulations before they can assume primary enforcement responsibility. This portion of the bill would grant the States this primary authority, provided they can show that their programs satisfy the requirements established by the Safe Drinking Water Act. **[Sec. 2; Sec. 1425 SDWA]**

We have evolved a reasonable compromise to many bills that have been introduced this session. This bill addresses several important issues in a sensible fashion. I endorse it with my vote today.

Mr. DOMENICI. Mr. President, I rise in support of H.R. 8117, a bill to amend the Safe Drinking Water Act. That act has created a number of problems in my State of New Mexico and this bill will resolve many of those problems. Specifically, I would like to address two sections of the bill.

The Safe Drinking Water Act requires that the Environmental Protection Agency propose regulations for the State underground injection control program within 180 days after the date of enactment of that law. **[Sec. 1421 SDWA]** The regulations would cover all types of injection wells from industrial and nuclear disposal wells, oil and gas injection wells, solution mining wells or any hole in the ground designed for the purpose of injecting water or other fluids below the surface.

Since this section was passed into law, EPA has proposed and reproposed regulations, and in each case, the proposals have been almost universally disliked by the State who will enforce those regulations.

For example, in my State of New Mexico, the State oil conservation division presently regulates approximately 3,500 injection wells related to oil and gas activities in the State. These include injection wells in secondary recovery projects and approximately 250 salt water disposal wells. Almost 80 percent of the State's oil production is directly related to the continued use of these injection wells, consequently, EPA's regulations are of vital concern, and unnecessary regulations imposed on an already effective State program could be a step backward, not a step forward.

In New Mexico the first salt water disposal well was approved in 1951. The oil conservation division has continued to work to develop a program which it believes adequately protects underground sources of drinking water while continuing to permit the maximum degree of oil and gas production at a minimum cost to taxpayers. Since that first well was approved in 1951, there has only been one case brought before the Commission where contamination of a fresh water zone was alleged.

The Interstate Oil Compact Commission has prepared a brief study of the harmful effects of oil and gas operations on underground sources of drinking water in the States of Texas, New Mexico, Louisiana, Oklahoma, and Arkansas and has failed to find any widespread contamination. While the study is by no means a comprehensive look at the issue, it is presently the only information of this kind available, as EPA has not as yet conducted such a study.

The imposition of a rigid national pattern on States which possess varying regulatory systems, varying geology, and varying geology, ages of wells, could prove unworkable. The Safe Drinking Water Act requires that EPA not unnecessarily interfere with existing State programs, but it is my belief that the issuance of these underground injection control regulations could undermine the responsible programs of many States.

H.R. 8117 will give EPA the discretion to approve State plans, without subjecting those States to regulations prepared under the Safe Drinking Water Act, if the State program adequately protects underground water supplies. It is my belief that this is a fair and equitable solution to the problem.

The bill also addresses the problem of communities that have not been able to meet interim primary drinking standards. Specifically, it extends the State exemption authority for compliance with interim standards from January 1, 1981 until January 1, 1984. **[Sec. 1; Sec. 1416(b) SDWA]**

Mr. President, this amendment will greatly assist many small communities in my State of New Mexico, as well as small communities all over this country. States should have the ability to continue to exempt systems from compliance with interim regulations until final standards are issued. This amendment will serve that need.

Therefore, Mr. President, I urge immediate acceptance of H.R. 8117.

Mr. THURMOND. Mr. President, this bill is the House passed version of S. 3046, which I was pleased to cosponsor with my distinguished colleague from Illinois, Mr. Percy. The need for this legislation is manifest.

Unless this legislation is passed this session, Mr. President, some 60 water systems in my State of South Carolina will be out of compliance with Safe Drinking Water Act standards as of January 1, To keep from being out of compliance, these systems would have to undergo an extremely costly modification process to remove flourides from the water.

The Environmental Protection Agency has not yet completed the necessary studies from which to establish appropriate flouride level standards, and until this is done, I feel that it would be premature to set exacting standards. I hope that prompt action can be taken today, Mr. President, so that hundreds of communities in South Carolina and other States will not have to undertake substantial modifications of their water systems which may ultimately prove to have been unecessary.

Mr. PERCY. Mr. President, I wish to take this opportunity to commend Senator Randolph, chairman of the Environment and Public Works Committee, and Senator Stafford, the ranking minority member, for their expeditious consideration of H.R. 8117, amendments to the Safe Drinking Water Act. This legislation is a compromise version of legislation I introduced along with Senator Stevenson, Senator Thurmond, and Senator Hollings.

H.R. 8117 extends the period of authority for States to issue exemptions to Environmental Protection Agency Safe Drinking Water Standards. [Sec. 1; Sec. 1416(b) SDWA] This authority expires on January 1, 1981—less than 2 months from now—and communities across the country would have been forced to make major investments in equipment if this legislation was not enacted before the close of this session of Congress. Illinois EPA officials estimate that it will cost $275 million, excluding annual operating expenses, to comply with the U.S. EPA standards in Illinois alone. Some small Illinois water systems would have been forced to increase water rates for the average family by as much as $88 a month.

I do not oppose the concept underlying the Safe Drinking Water Act. Indeed, I fully support maintaining drinking water with a margin of safety. My concern is that EPA has failed to issue standards in a timely fashion, despite Congress mandating that such standards be issued by 1978. Water systems should not be forced to spend millions of dollars on expensive equipment to comply with interim standards, when revised standards, which may require different equipment, are to be issued soon. The EPA standards may be too low, or they may be too high, but EPA should establish revised standards before requiring local communities to spend large sums for compliance. Such expenditures on equipment of unknown benefit reduce the funds available for expenditures of known benefit.

H.R. 8117 extends the State exemption authority until January 1, 1984. Under the legislation I had originally proposed, the exemption authority would be extended until January 1, 1988. I view this provision in H.R. 8117 as an acceptable compromise and am pleased that it will become law before the end of this year. I deeply appreciate the swift consideration of this legislation by the committee and I thank these Senators involved.

90-224 O - 82 - 6

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 8117) was ordered to a third reading, was read the third time, and passed.

[From the Congressional Record, Sept. 22, 1980]

HOUSE DEBATE ON H.R. 8117

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8117) to amend the Safe Drinking Water Act, and for other purposes, as amended.

The Clerk read as follows: [H.R. 8117, see text, pages 53–58]

The SPEAKER pro tempore. Is a second demanded?

Mr. BROYHILL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. Waxman) will be recognized for 20 minutes, and the gentleman from North Carolina (Mr. Broyhill) will be recognized for 20 minutes.

Mr. WAXMAN. Mr. Speaker, when the Safe Drinking Water Act was reauthorized last year, I pledged that the Subcommittee on Health and the Environment would conduct vigorous oversight over the act and recommend needed amendments. Since then, the subcommittee has held 5 days of oversight hearings, including field hearings in Chicago and Pittsburgh. The bill which comes before you today is the product of that oversight.

During our hearings, many difficult and important issues were raised. We do not purport to have thoroughly dealt with all those issues in the reported bill. Rather, we have confined ourselves to proposing amendments to the Safe Drinking Water Act that are needed right away to adjust deadlines, or to improve Federal-State coordination, or to modify program coverage. We intend to undertake further oversight over the act in the next Congress and study possible additional changes to the act.

Section 1 of the bill extends for 3 additional years the power of the States to grant temporary case-by-case exemptions from the interim primary drinking water regulations. **[Sec. 1416(b) SDWA]** Thirteen thousand six hundred systems—most of them serving fewer than 2,500 people—are estimated by the Environmental Protection Agency to be unable to comply with the interim standards by the current January 1, 1981, statutory deadline. In the great majority of cases, noncompliance has been caused by lack of adequate leadtime or financial resources to make needed improvements. The additional exemption period permitted by this bill will allow orderly planning of needed improvements and will permit exploration of all available funding sources, such as through the Small Business Administration and the Farmers Home Administration.

Under the bill, the States would set compliance deadlines for systems on an individual basis. We expect that these compliance dates

will be set on the basis of appropriate engineering studies to determine the alternatives available to the particular system. We expect also that systems will be brought into compliance as soon as possible, as is required by the act. In granting exemptions and setting compliance dates, no distinction is intended to be made between privately—and publicly—owned systems.

Section 2 provides States with an alternative means for States to acquire primary enforcement responsibility for the control of underground injection related to the recovery and production of oil and natural gas. **[Sec. 1425 SDWA]**

At present, a State may obtain primary enforcement responsibility for controlling underground injection only by showing that its underground injection control program meets the requirements of EPA regulations. **[Sec. 1422(b) SDWA]** Representatives of States that regulate underground injection related to the recovery or production of oil or natural gas testified in oversight hearings that they already have programs that meet the requirements of the Safe Drinking Water Act and prevent the underground injection which endangers drinking water sources. The bill would allow those States to continue their programs, unemcumbered by additional Federal requirements, if they can demonstrate that their programs meet the requirements of the act. A State that can make this demonstration would be considered to have primary enforcement responsibility the same as a State that has met EPA's regulations.

Section 3 deletes the underground storage of natural gas from the statutory definition of underground injection. **[Sec. 1421(d) SDWA]** Natural gas storage operators testified in oversight hearings that the mere possibility of Federal regulation would discourage needed expansion of gas storage facilities. Since there currently is no evidence that gas storage poses a risk to drinking water quality, we chose to delete gas storage from the underground injection control program.

Section 4 makes various needed technical amendments. **[Secs. 1415, 1416(a), 1421(b), 1443(b) SDWA] Section 5** allows grants to be made to a public water system for the purpose of developing a water filtration system which will demonstrate a new or improved method of meeting State turbidity standards that are stricter than Federal standards. Technical change has been made in this section to reflect the committee's intent that these grants be discretionary. **[Sec. 1442 SDWA]**

Mr. Speaker, the changes proposed in H.R. 8117 are necessary to a workable program of improving drinking water quality across the Nation. I commend all of those who have worked to bring forth this bill. I respectfully urge my colleagues to support H.R. 8117.

Mr. BROYHILL. Mr. Speaker, I would like to thank Mr. Waxman, chairman of the Subcommittee on Health and the Environment, for his efforts on behalf of H.R. 8117. This legislation makes necessary midcourse corrections in the administration of the Safe Drinking Water Act. Of course, the act will be scrutinized during the 1982 reauthorization process with an eye on more extensive changes to the extent they are necessary.

I would be remiss if I did not thank my colleague from Texas (Mr. Gramm) and emphasize my support for his tireless efforts with respect to even more comprehensive adjustments in the existing statute.

Section 1 of H.R. 8117 extends for 3 years the power of the States to grant exemptions from the national interim primary drinking water regulations. **[Sec. 1416(b) SDWA]** Under the Safe Drinking Water Act, exemptions are the main source of local relief from the deadlines of the regulations. Because as of this date all EPA drinking water regulations are interim regulations, the exemption provision for such regulations would have been a dead letter without this legislation.

Of course, one of the reasons for this state of affairs is the fact that the Administrator of EPA has not issued revised national drinking water regulations. However, this reluctance to do so is understandable in light of substantial doubt concerning an adequate basis for such an action in view of the fact that the report on the study conducted by the National Academy of Sciences did not contain prerequisite proposals for recommended maximum contaminant levels.

To compensate for the expected demise of the exemption program for interim regulations, EPA had proposed a strategy of enforcement priority for small systems.

The extending of exemption deadlines has several advantages over the small systems strategy. First, thousands of systems which would be in violation of law would not be carrying the stigma and anxiety of such violations if they obtained an exemption. Second, an exemption shields the systems from citizen suits to require compliance with Federal standards under **section 1449** of the act. Third, a utility that obtains an exemption is not subject to an EPA enforcement action under **section 1414** of the act. Fourth, civil proceedings for violating Federal standards under **section 1414** may not be maintained against a system that has been granted an exemption except where the system fails to comply with its compliance schedule. Fifth, EPA has only restricted authority to police State exemption practices under **section 1416**. Sixth, a decision on the State granting of exemptions is subject to judicial review under **section 1448**.

I have been somewhat concerned that the guidelines for determinations of economic factors for granting exemptions as presented in EPA's "Guidance for the Issuance of Variances and Exemptions" have been unduly restrictive. However, EPA was wise enough in its preface in that document to indicate that it will comprehensively review State-issued exemptions at best every 3 years. State regulators are best positioned to judge whether there are compelling factors affecting a local system's ability to comply with the unique circumstances presented by each case. The Committee on Interstate and Foreign Commerce made it clear in its report accompanying this bill that EPA should not exercise its limited authority to revoke exemptions if the States are making good faith efforts at implementation of the law.

The committee made clear its intentions that private and public water suppliers be treated alike because the customer economic impact will be the same. Any language in the guidance documents indicating a bias toward financial constraints peculiar to public systems is, therefore, too restrictive. In any event, States have broad authority to issue exemptions under certain statutory requirements without reference to

any set formula. I might mention in passing that in a portion of the committee report dealing with exemptions, due to a clerical error, the last phrase of a sentence which should have read "the committee does not believe that whether a system is privately or publicly owned is relevant in determining this date or whether an exemption is granted" was inadvertently placed in the last sentence of that paragraph.

Section 2 of the bill should free the producing States which have been doing a good job of regulating underground injection relating to oil and natural gas from the requirements of EPA regulations and allow them to continue their current programs. [Sec. 1425 SDWA] This would result in substantial saving to consumers and relieve a matter which would otherwise exacerbate Federal-State relations. States have demonstrated substantial expertise and effectiveness in protecting underground sources of drinking water in oil and gas operations. I might say that I thought that Federal regulations in this area of underground injection were unnecessary and disruptive in the first instance and interfered and impeded oil and gas operations.

Section 3 of the bill was necessary to prevent EPA from discouraging expansion of natural gas storage facilities. Gas storage facilities have not proved a threat to drinking water quality. [Sec. 1421(d) SDWA]

I urge my colleagues to support the bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. McClory), who has also been quite interested in this bill. Although he is not a member of the committee, he has been very helpful in helping us to formulate this bill and bringing it to the floor today.

Mr. McCLORY. I thank my colleague, the gentleman from North Carolina, for yielding.

Mr. Speaker, I want to commend my colleague from California, Mr. Henry Waxman, my colleague from North Carolina, Mr. Jim Broyhill, and my colleague from Kentucky, Dr. Tim Lee Carter, for continuing to hear and try to understand the problems of my constituents in Illinois related to the presence of barium found naturally in their community water supplies.

The problem regarding the validity of the barium standard was brought to me by officials of small communities in my congressional district who would find installation of a treatment plant financially burdensome and especially so if they felt it might not be necessary in order to protect their health.

I felt compelled to continue to pursue the subject and Mr. Waxman was kind enough to hold a committee field hearing in Chicago in order to hear from local officials, scientists, the Illinois EPA, and the U.S. EPA.

At this hearing, varying opinions were expressed, but all agreed that additional studies regarding the effect of barium on human health would be beneficial. I feel it is imperative that additional studies be conducted if EPA is to impose environmental requirements on the communities.

Mr. Speaker, the community officials in my congressional district want these studies. They have always made it clear to me that if they felt the barium standard were correct and barium actually posed a danger to health they would be the first to seek appropriate treatment facilities, since they live in these areas and drink the water.

The State officials charged with enforcement of Federal EPA standards throughout the Nation feel an urgent need for legislation such as that contained in this amendment to the Safe Drinking Water Act to allow them to continue to grant exemptions where authorized by the act. This amendment will provide such relief for an additional 3 years. It is my understanding that during this 3-year period it is expected standards will be based on more adequate scientific data. Mr. Waxman, that the Federal EPA will conduct or authorize studies so that revised standards will be based on more adequate scientific data. Mr. Waxman, am I correct in this assumption?

Mr. WAXMAN. If the gentleman will yield, yes, the committee in its report has mentioned a desire and expectation that additional studies be conducted in order to provide a more adequate scientific basis for standards which are being reviewed, as well as to develop standards for presently unregulated contaminants.

Mr. MCCLORY. Mr. Waxman, I hope that it is also the desire of your subcommittee and committee that no action will be taken to prevent the extension of water service for residential, commercial, or industrial use in those communities where the State EPA's see fit to grant exemptions in accord with the act.

Mr. WAXMAN. Yes, in general it is the desire of the subcommittee and the committee that communities that receive exemptions in accord with the act be allowed to grow and develop without hindrance in order to provide a better financial base for compliance with revised standards.

Mr. MCCLORY. Again, I thank my colleague from California, Mr. Henry Waxman, my colleague from North Carolina (Mr. Broyhill), and the gentleman from Kentucky (Dr. Carter) for their cooperation and authorship of this amendment before us, H.R. 8117, which I have been happy to cosponsor.

Mr. Speaker, I urge my colleagues to vote for passage of this amendment at this time in order to provide urgently needed legislative relief to my constituents--and I am sure to many of your constituents as well.

Mr. Speaker, I am particularly pleased to have action by the House on this measure because of the hardship which has been experienced by a number of communities in my congressional district. As I have indicated before on the floor of the House, barium in combination with other elements, as well as radium in combination with other elements, are and have been found naturally in the water supplies in a number of communities in my congressional district. The presence of barium, and to a lesser extent radium, in such water supplies has existed since time immemorial without any apparent adverse effect on the health of the citizens who have been consuming water from these community water supplies. The level of barium in the water varies from 2 or 3 parts per million to as much as 10 parts per million. However, the interim standard for barium in water has been established by the Federal EPA at one part per million—a standard which responsible scientists, including those from the Argonne National Laboratory, as well as the State EPA director of the division of public water supplies contend is unwarranted on the basis existing scientific and epidemiological data.

Mr. Speaker, the amendments which are contained in this legislation (H.R. 8117) should provide the necessary time within which further scientific and epidemiological studies may be completed to the end that a standard or standards may be established which have the authenticity to receive the support of the scientific community and which likewise would have the backing of the State EPA directors and public officials in the areas where such community water systems are found.

Mr. Speaker, the legislation which we are acting upon today should provide the necessary time within which a more reliable barium standard may be established.

Mr. Speaker, I appreciate the action taken by the subcommittee and the full committee. This evidence of cooperation between the Congress and the local communities and local officials who are involved as well as between the Congress and the State EPA directors seems to me entirely consistent with the intent of the Congress in the enactment of the Safe Drinking Water Act.

Mr. Speaker, it is also significant that this legislation has the strong support of Gov. James Thompson of Illinois, who, as representative of all of the communities in our State, feels strongly that this measure is needed in order to protect the communities directly involved and to permit uninterrupted economic development in our State.

Mr. Speaker, I want also to add that this legislation has the unanimous backing of State EPA directors represented by the State Conference of Sanitary Engineers, as evidenced by the testimony of Ira Markwood who is chairman of their water supply committee. Accordingly, this measure has national significance and broad national support.

With this in mind, I again urge my colleagues to vote in favor of H.R. 8117 today.

Mr. BROYHILL. I do want to commend my colleague, the gentleman from Illinois (Mr. McClory), for his diligence in this matter. I do agree with the gentleman with respect to the issues that he has raised here; and, of course, the gentleman has well represented his constituents with respect to this matter because he was rather persistent in their behalf and he did, at the same time, work with the subcommittee and the members in an attempt to work out satisfactorily legislative language in order to help the various communities with the problem that the gentleman has mentioned today.

Mr. MCCLORY. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Illinois.

Mr. MCCLORY. Mr. Speaker, again I want to thank the gentleman for his cooperation, I might say that my colleague from the adjoining district, the gentleman from Illinois (Mr. Philip M. Crane), is also concerned about this subject.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. Gramm), who I earlier mentioned played such an important role in the development of this legislation.

Mr. GRAMM. Mr. Speaker, I would like to thank the gentleman from California, the distinguished chairman of this subcommittee.

I think that this bill represents an important first step in bringing rationality into the whole environmental debate. We have done no damage to environmental protection here. But we have found those

areas, such as underground storage of natural gas, and injection of brine to produce oil and gas, where there were real problems, where there were real questions concerning what benefits were to be gained by new regulations, new paper work, filling out new forms, and what was to be lost in terms of energy production and the sale of energy to the American consumer.

We have taken the case where deadlines for the meeting of requirements imposed by EPA could not be met, where the standards themselves could not be defined in time for these deadlines to be binding, and we have set out, I think, a realistic time schedule.

I would just like to say that I appreciate the help of our distinguished chairman, the ranking minority member of this committee, and I think we have taken a step in the right direction. I am hoping that in 1982, when we rewrite the Safe Drinking Water Act, we will have an opportunity to focus in on the basic issues themselves, on the issue of who the burden of proof should rest upon when we impose binding constraints on the local government and on local waterworks.

I hope that we can debate the full range of issues, but I think this bill gives us breathing room. This bill addresses in a very realistic manner the most binding constraints that we face.

Mr. GONZALEZ. Mr. Speaker, will my distinguished colleague, the gentleman from Texas, yield for the purpose of a question?

Mr. GRAMM. I will be very happy to yield to my colleague from Texas.

Mr. GONZALEZ. I rise only because I have not had a chance to examine to see if there is any—chances are there is not—reference to what concerns us most in my district. Five years ago I had the great satisfaction of having an amendment that affected really a very unique situation, probably not only in this country but in the world, where a city is dependent for its sole source of drinking water on an aquifer, and the amendment was adopted. It provides for certain criteria in the cases of grants and, I imagine, the followup EPA rules. **[Sec. 1424(e) SDWA]**

Does the gentleman have any knowledge as to whether anything contained in this amendment today has any reference to the single-source aquifer situation provided for and now contained in the law?

Mr. GRAMM. The answer to that question is no, it in no way changes that aspect of the law which was written by the distinguished gentleman from Texas and in no way lessens those protections and the recognition of that unique problem.

Mr. GONZALEZ. I thank the distinguished gentleman.

Mr. CORCORAN. Mr. Speaker, I wish to express my support for H.R. 8117, which will permit States to grant exemptions to water systems on a case-by-case basis from the U.S. Environmental Protection Agency's (EPA) interim primary drinking water regulations for 3 to 5 years. **[Sec. 1: Sec. 1416(b) SDWA]**

The State of Illinois has lately encountered problems with the maximum contaminant levels for barium, fluoride and radioactivity as set by the EPA. Barium, fluoride and radioactivity occur naturally in many water supplies in Illinois, including 20 communities in the 15th District, which I represent.

While it seems possible that the EPA regulations relative to both barium and radioactivity are needed and are important because at some level both of these substances pose a public health problem, there is significant controversy involved in this matter. The basis for the regulations, as they are currently set, have repeatedly been disputed by experts in the field. In light of the significant amount of controversy as to the "safe" levels of these substances in drinking water, and the apparent lack of any distinguishable effects resulting from the people of Illinois drinking the water having levels of excess of either or both of these substances, I am convinced that the EPA regulations are excessive.

The cost of compliance for the small water systems which are in violation of these standards is prohibitive. Illinois State law prevents any additional extensions of water supplies which are not in compliance. Rather than force these noncomplying systems to install equipment of unknown benefit, additional time, as granted by this legislation, is needed for research to establish proper maximum contaminant levels.

I have been contacted by the Governor of Illinois and local officials and residents of the areas which are affected by these regulations. In pursuing this problem, I have repeatedly contacted the EPA Administrator, Douglas M. Costle, in hopes that the EPA would reevaluate these regulations and offer reasonable methods for treatment to these communities. However, it quickly became apparent that only legislative action would grant the necessary relief. I commend Congressman Robert McClory for his hard work in bringing this matter to the attention of my colleagues.

This extension will allow time for studies on these Federal standards so that EPA can develop the proper documentation for a new set of standards on these substances.

Mr. CARNEY. Mr. Speaker, today we are considering amendments to the Safe Drinking Water Act of 1974. That legislation contains provisions to protect groundwater management. I am aware that this bill has been carefully constructed to meet the needs of certain sections of the country and the concerns of environmental interests. I am also aware that these amendments are brought up on the suspension calendar, just as the extension of the Safe Drinking Water Act was last year at this time. In my opinion, the act is incomplete. We need legislative authority for a comprehensive program for groundwater protection.

Half of the United States depends on groundwater for its drinking water. Nevertheless, groundwaters across the United States have become increasingly polluted, thus endangering the one substance without which none of us can survive. The pollution we must be concerned about includes discharges from septic tanks and cesspools, as well as from leachate from land disposal sites, which injects chemical and industrial wastes into our water supply. Oil and gas exploration has caused groundwater pollution in some parts of the country. Finally, chemicals applied directly to the ground by man—such as pesticides and highway deicing salts, have also resulted in an increase in groundwater pollution.

It is interesting that this safe drinking water legislation is sandwiched between two other more extensive bills that will improve water quality and the safety of Americans. Last week the House approved the Oil Pollution Liability and Compensation Act, to provide means of cleaning up coastal waters that have been hit by oilspills. Later this week, we will consider the Hazardous Waste Containment Act. That bill will establish a program with teeth to protect the public from dangers posed by hazardous waste sites. This so-called superfund legislation will help to provide the financial assistance necessary to clean up hazardous waste sites.

However, as vital as these latter two bills are, it is necessary that we come to grips with the need for Federal authority to identify groundwater quality standards, and, above all, to develop technology to assure that polluted groundwater can be made potable.

It is my expectation that the groundwater problem will receive much closer attention during the 97th Congress. When that legislation comes to the floor, I sincerely hope that it will not be on the suspension calendar as it has been for the past 2 years. Legislation as important and expensive as the Safe Drinking Water Act deserves close attention by all Members.

Mr. PHILIP M. CRANE. Mr. Speaker, barium, a silver-white metallic element, appears naturally in community drinking water in many Illinois communities. For as long as residents of northern Illinois have been drinking ground water, they have undoubtedly been imbibing barium as well. No one seemed to notice until 1974. The Safe Drinking Water Act of 1974 empowered the Environmental Protection Agency to set standards for drinking water. **[Sec. 1412 SDWA]** By January 1, 1981, drinking water was to be in compliance with EPA's standards. **[Sec. 1416(b) SDWA]** This 7-year delay was thought to be more than adequate to allow communities to install filters or whatever technology was necessary to comply with EPA's edicts.

In setting that 7-year deadline, Congress overlooked a detail—the EPA does not move with the efficiency of a free market business. Four years later, EPA was just getting around to issuing its standards for drinking water. This left just 3 years to comply with the standards.

Even more distressing than the abbreviated time for compliance after EPA announced its regulations, however, is the basis for these requirements. Although EPA cited the customary laundry list of studies documenting the dangers of this trace metal in drinking water, only one of those studies, according to an EPA source, was a study actually done on people drinking water in a community. The rest of the studies were of the "rat drinking 700 bottles of soda and dying of cancer an instant before drowning" variety. The single epidemiological study (study on homo sapiens in his natural habitat) was even considered unsatisfactory by EPA. Evidently the study did not account for individuals who had installed their own private water softening devices.

Notwithstanding the reduced time for compliance and the questionable scientific support for the dangers of barium, any community without a device to remove the dangerous natural element from drinking water on January 1, 1980, will be subject to fines of not more than $5,000 every day they fail to comply. **[Sec. 1414(b) SDWA]** EPA

will teach us not to drink our water, if they have to fine us down to our last dollar.

This is an example the Federal Government's protective zeal carried to excess. Surely no one would suggest that communities in Illinois or anywhere else would continue to distribute water that would threaten community health. The local officials, who must drink the water themselves, would be the first to install appropriate treatment facilities and warn all residents of the danger in the interim. Perhaps EPA should be reminded that self-preservation is more motivating than any fine. If the danger of barium is established, fines will not be necessary; the initial warning will elicit immediate precautions.

H.R. 8117, the bill before the House today, will grant Illinois communities and the rest of the Nation another 3 years to comply with EPA drinking water requirements. **[Sec. 1; Sec. 1416(d) SDWA.]** In the interim, EPA will conduct more studies in search of the conclusive evidence that barium is dangerous. EPA supports this delay.

Indeed EPA is wise in supporting this delay. EPA's own publication, "National Interim Primary Drinking Water Regulations," states that "no study appears to have been made of the amounts of barium that may be tolerated in drinking water or effects from prolonged feeding of barium salts from which an acceptable water guideline may be set." While the barium standard is not the only requirement delayed by this bill, any standard based on such flimsy evidence should not be enforced against communities who would need no compulsion to protect themselves if the danger were substantiated.

As you may detect, I would prefer to reconsider this barium standard in its entirety. But, we can at least delay its effective date. I have sponsored H.R. 5675 and H.R. 7189 to effect this delay. Maybe we can reconsider this environmental policy another day. Meantime, I urge the passage of H.R. 8117's provisions to delay the safe drinking water requirements.

Mr. BOLAND. Mr. Speaker, the Committee on Interstate and Foreign Commerce reported H.R. 8117 on Friday, September 19, 1980. During committee action, an amendment was agreed to that required the EPA Administrator to make grants to a public water system to meet standards relating to drinking water turbidity more stringent than those in effect under the Public Health Service Act. **[Sec. 5; Sec. 1442 SDWA]** The original committee amendment did not authorize appropriations for this purpose. It would have required the reallocation of the existing authorization. The original amendment could have required the reallocation of funds appropriated for fiscal year 1980 in Public Law 96–103. As such, it constituted an appropriation in a legislative bill and was in violation of clause 5, rule XXI.

Mr. Speaker, I am pleased that when this issue was brought to the attention of the Commerce Committee, the response was quick and satisfactory. The committee amendment has been technically adjusted and it now authorizes, rather than requires, the EPA Administrator to make grants to a public water system. Thus the amendment does not violate House rules and the perogatives of the Committee on Appropriations are preserved. I commend the gentleman from California (Mr. Waxman) for his understanding in resolving this matter.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Waxman) that the House suspend the rules and pass the bill, H.R. 8117, as amended.

The question was taken.

Mr. WEAVER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b), rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

[From the Congressional Record, Sept. 23, 1980]

HOUSE DEBATE ON H.R. 8117

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 8117, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Waxman) that the House suspend the rules and pass the bill, H.R. 8117, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

A motion to reconsider was laid on the table.

CHAPTER III

PUBLIC LAW 96-63 (TO EXTEND FOR THREE YEARS THE AUTHORIZATIONS FOR APPROPRIATIONS UNDER THE SAFE DRINKING WATER ACT); S. 1146, AS REPORTED MAY 15, 1979; SENATE REPORT (96-161); SENATE DEBATE: AUGUST 3, MAY 22, 1979; ADMINISTRATION TESTIMONY AT SENATE HEARING: MARCH 19, 1979; H.R. 3509, AS REPORTED, MAY 15, 1979; HOUSE REPORT (96-186); HOUSE DEBATE: JULY 30, 1979; ADMINISTRATION TESTIMONY AT HOUSE HEARING: MARCH 26, 1979

Public Law 96-63
96th Congress

An Act

To extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act.

Sept. 6, 1979
[S. 1146]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safe Drinking Water Act, appropriations authorizations, extension.

SECTION 1. (a) The first sentence of subsection (e) of section 1442 of the Public Health Service Act (42 U.S.C. 300j-1(e) is amended by striking out "; and" and substituting a semicolon and by inserting the following before the period at the end thereof: "; $21,405,000 for the fiscal year ending September 30, 1980; $30,000,000 for the fiscal year ending September 30, 1981; and $35,000,000 for the fiscal year ending September 30, 1982".

(b) The second sentence of such subsection (e) is amended by striking out "and 1979" and substituting "through 1982".

SEC. 2. (a) Paragraph (7) of subsection (a) of section 1443 of the Public Health Service Act (42 U.S.C. 300j-2(a)(7) is amended by striking out "and" and by inserting the following before the period at the end thereof: ", $29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982".

(b) Paragraph (5) of subsection (b) of such section is amended by striking out "and $10,000,000" and substituting "$10,000,000" and by inserting the following before the period at the end thereof: ", $7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982".

SEC. 3. Paragraph (2) of subsection (f) of section 1441 of the Public Health Service Act (42 U.S.C. 300j(f)) is amended by striking out "1979" and substituting "1982".

Approved September 6, 1979.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-186 accompanying H.R. 3509 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-161 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 125 (1979):
May 22, considered and passed Senate.
June 30, H.R. 3509 considered and passed House; passage vacated and S. 1146, amended, passed in lieu.
Aug. 3, Senate agreed to House amendments.

NOTE

S. 1146, a three-year extension of authorizations for appropriations under the Safe Drinking Water Act, was signed into law by President Carter September 6, 1979 (Public Law 96–63).

The Senate Committee on Environment and Public Works reported an original bill, S. 1146, providing for a three-year extension of authorizations for appropriations under the Act on May 15, 1979. The Senate debated and approved this bill without amendment May 22, 1979. The House Committee on Interstate and Foreign Commerce reported a bill to extend for three years the expiring programs of the Act on May 15, 1979. House debate on this bill, H.R. 3509, occurred on July 30, 1979, and the House passed the bill by a voice vote of 319–76. Subsequently, passage of H.R. 3509 was vacated, and S. 1146, amended, was passed in lieu. On August 3, 1979, the Senate agreed to the House amendments to S. 1146.

Calendar No. 173

96TH CONGRESS
1ST SESSION

S. 1146

[Report No. 96–161]

To amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), to extend for three fiscal years the authorization for appropriations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15 (legislative day, APRIL 9), 1979

Mr. MUSKIE, from the Committee on Environment and Public Works, reported the following original bill; which was read twice and ordered to be placed on the calendar

---

A BILL

To amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), to extend for three fiscal years the authorization for appropriations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1444 of the Public Health Service Act is

amended by adding a new subsection (e), which shall read as follows:

"(e) The administrator shall establish demonstration projects for the abatement and control of drinking water contaminants, including both synthetic, organic and inorganic substances, in water supply systems serving five thousand persons or less. For purposes of this subsection, there are authorized to be appropriated $1,000,000, which shall remain available until expended.".

SEC. 2. (a) Section 1442(e) of the Public Health Service Act is amended by striking "and" immediately following "1977;" and by inserting after "1979" and before the period: "; $21,405,000 for fiscal year 1980; $24,647,000 for fiscal year 1981; and $30,485,000 for fiscal year 1982.".

(b) Section 1443 of the Public Health Service Act is amended—

(1) by striking "and" immediately following "1978" in paragraph (a)(7) and inserting after "1979" and immediately following the period: "; $29,000,000 for fiscal year 1980; $30,000,000 for fiscal year 1981; and $35,943,000 for fiscal year 1982.".

(2) by striking "and" immediately preceding "$10,000,000" in paragraph (b)(5) and inserting after "1979" and immediately before the period: "; $7,795,000 for fiscal year 1980; $14,453,000 for fiscal year 1981; and $15,172,000 for fiscal year 1982.".

Calendar No. 173

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96-161

AMENDING THE SAFE DRINKING WATER ACT

MAY 15 (legislative day, APRIL 9), 1979.—Ordered to be printed

Mr. MUSKIE, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 1146]

The Committee on Environment and Public Works, reports an original bill to amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), to extend for 3 fiscal years the authorization for appropriations, and for other purposes and recomends that the bill do pass.

GENERAL STATEMENT

The Federal approach to regulation of drinking water has been an evolutionary process. Starting with quarantine regulations in the 1920's and the interstate carrier program in the 1940's, the Public Health Service began prescribing methods necessary to prevent the introduction, transmission, or spread of communicable diseases. The Public Health Service guidelines, promulgated in 1962, gave valuable direction to communities and other water suppliers. Under Reorganization Plan No. 3 of 1970, the authority to establish and revise drinking water standards for interstate carriers was transferred to the Administrator of the Environmental Protection Agency. Subsequently, the Environmental Protection Agency adopted the 1962 Public Health Service guidelines.

The approach of the Public Health Service, however, proved inadequate.

First, the guidelines were not enforceable.

Second, each State had the flexibility to determine the scope of its water systems protection. Many State, regional and local governments failed to develop, apply, or enforce applicable standards. The General Accounting Office, the Conference of State Sanitary Engineers, the Environmental Protection Agency, and several public interest investigators, have documented the inadequacy of water system quality control efforts. They found that treated water was frequently below standards.

90-224 O - 82 - 7

Third, the Federal standards failed to address the many cancer-causing chemical compounds in drinking water supplies. Toxic organic and inorganic chemicals are commonly found at high levels in raw water. But the legal authority to issue standards requiring their removal was not exercised.

Fourth, underground sources of drinking water were not adequately protected either by the Public Health Service standards or by the Federal Water Pollution Control Act. Poisoning of water supplies linked to underground injection had been documented in many instances. Public agencies such as the Bureau of Mines, the U.S. Geological Survey, and several States, responsible companies, and the public at large became concerned about the substantial hazards associated with deep well injection of contaminants and the increasing reliance on deep well injection for disposal of wastes, chemicals, and industrial byproducts.

It was against this backdrop that the Congress enacted the Safe Drinking Water Act of 1974. In order to deal with public drinking water, and groundwater contamination and waterborne disease, the act directed the Environmental Protection Agency to establish a preventive program to protect the public from known and potential hazards. Briefly, this program involved:

(1) promulgation of national primary (health) and secondary (aesthetic) drinking water standards;

(2) promulgation of standards to guarantee the integrity of groundwater sources of drinking water;

(3) development of an effective enforcement program in cooperation with State governments, giving this responsibility primarily to the States; and

(4) implementation of a strong health effects and technology research effort.

The Environmental Protection Agency, with the assistance of the States, the water supply industry, and active and concerned members of the public, has taken the first steps toward implementing this program. National primary and secondary drinking water standards have been established. These standards serve as the basis for the first nationwide program of monitoring public water supplies.

The Safe Drinking Water Act envisions States assuming primary enforcement responsibility, or primacy, for public water systems. EPA grants primacy conditioned on a State's adoption of drinking water regulations at least as stringent as the national standards, on the State's showing that it has adequate administrative capability to enforce the program, and on a showing that the proper recordkeeping requirements will be met. To date, 40 States have met these requirements. Hence, the anticipated State-Federal partnership is a fact.

The act has provided for the training of thousands of municipal plant operators across the Nation. It has also set in motion scientific examination which promises improvements in treatment technology for the future, as well as advancement in the understanding of the relationship between drinking water, its components, and human health.

Finally, the public notification program is operating successfully. Complacency about safe water supplies is being replaced by educated concern about human health hazards.

These steps, while commendable, are only a beginning. Results from available health research dictates that additional effort must be invested in the task of removing cancer-causing chemicals from community water supplies. To date, more than 700 organic chemicals have been measured in drinking water samples. Many of these are known to be cancer-causing or otherwise hazardous, such as vinyl chloride, benzene, carbon tetrachloride, trichloroethylene, chloroform, Kepone, and PCB's. But the vast majority have not yet even been tested to determine their toxicity.

The act requires that EPA adopt a preventive health posture in regulating contaminants. This requires that uncertainties be resolved on the side of protecting public health. With chemicals whose side effects may not become manifest for a generation after exposure, this means regulations cannot be withheld until danger is conclusively proven. The Environmental Protection Agency must include organic chemicals in the regulatory scheme of primary drinking water regulations.

This goal was clearly envisioned by the authors of the Safe Drinking Water Act. As Judge Leventhal of the U.S. Court of Appeals for the District of Columbia stated, "[t]he legislative history [of the Safe Drinking Water Act] contains abundant evidence that Congress intended the rapid implementation of broad mandatory controls over impurities." *Environmental Defense Fund* v. *Costle*, 578 F. 2d 337, 343 (D.C. Cir. 1978).

The act and its accompanying reports reflect serious concern about the effects of introducing industrial chemicals into this society. The 1974 House report noted, "the committee intends that the revised regulations contain a *comprehensive* (emphasis added) program of control of drinking water contamination." The Senate and House committee reports leave no doubt about the urgency of including organic chemicals in this comprehensive strategy. The need for this effort was highlighted in President Carter's Environmental Message of 1977. EPA, he declared, must "* * * set standards under the Safe Drinking Water Act which will limit human exposure to toxic substances in drinking water, beginning with potential carcinogens." This need to act has been underscored by the almost daily news reports of toxic chemical spills, discovery of hazardous waste sites, and industrial and municipal discharges into ground and surface water supplies.

Also of critical importance is the full implementation of the act's ground water protection program. Five years after the passage of the Safe Drinking Water Act, the Agency has only recently reproposed rules for underground injection activities. It has taken this long for EPA to define the environmental problems associated with underground injection activities, to devise an appropriate regulatory strategy, to consider and incorporate public comments into proposal form, and to integrate these proposed regulations with provisions of other operative laws. It is essential to promulgate these important rules expeditiously in order to stop the indiscriminate disposal of potentially harmful wastes underground.

Summary of the Bill

The committee has found the basic preventive regulatory approach of the Safe Drinking Water Act to be sound. The Environmental Pro-

tection Agency, though constrained by limited resources, has undertaken a commendable implementation effort. Based on information presented in oversight and reauthorization hearings, the committee recommends that the program authorization be extended for 3 years, through fiscal year 1982. In addition, the committee unanimously adopted an amendment authorizing demonstrations of drinking water treatment technologies suitable for small communities of 5,000 or less.

PROVISIONS OF THE BILL

Section 1: Demonstration of Small System Treatment Technology

SUMMARY

This section amends section 1444 of existing law. The amendment authorizes $1 million to demonstrate the abatement and control of both organic and inorganic contaminants in water supply systems serving 5,000 or fewer persons.

DISCUSSION

With increased national monitoring, it is becoming evident that many communities do not now meet the interim primary drinking water standards. Smaller communities, especially, may face financial and technical difficulty in complying with the law because the economies of scale usually associated with water purification technology do not operate in many cases.

EPA is expected to increase its research effort into treatment technologies suitable to small communities for the removal of inorganic and organic contaminants. Not only must the technologies be effective in eliminating organic and inorganic contaminants, but they must also be affordable. The committee proposes the authorization of $1 million for demonstration projects to be used in association with this research. In so doing, the committee does not mean to signal any intention to establish a system of grants to finance the construction of water supply facilities of any size. On the contrary, the projects are intended to seek out technologies demonstrating reasonable cost so that compliance without subsidies is possible.

Section 2: Authorization for Appropriations

SUMMARY

This section amends sections 1442 and 1443 of existing law. These amendments authorize appropriations to provide modest growth in the Safe Drinking Water program.

DISCUSSION

The committee was presented with an array of authorities representing historical, optimum, modest, and no-growth funding levels. The selection of a level which provides for modest growth in the drinking water program reflects the committee's judgment that EPA's

drinking water program will require additional resources to keep pace with inflation, to continue building the States' capacity to conduct effective drinking water programs and to bring monitoring and enforcement efforts to full capability.

The recommended levels contemplate a slight increase in support of state public water supply supervision program grants, and a more substantial increase in funding to provide the necessary start up of State underground injection programs. Strong State agency efforts are critical to successful implementation of the joint Federal-State partnership envisioned in the Safe Drinking Water Act.

Hearings

Pursuant to the Senate Reorganization of 1977, Senate Resolution 4, jurisdiction for the Safe Drinking Water Act was transferred to the Committee on Environment and Public Works. Since the reorganization, the Subcommittee on Environmental Pollution has conducted two days of hearings, taken oral testimony from administration and public witnesses, and accepted written submissions from numerous other interested persons.

The subcommittee met in mark-up session on April 9, at which time it voted unanimously to report the bill to the full committee. On May 11, the full committee, by unanimous voice vote, ordered reported to the Senate amendments to the Safe Drinking Water Act of 1974.

Rollcall Votes

Pursuant to section 133(b) of the Legislative Reorganization Act of 1979 and the rules of the Committee on Environment and Public Works, the vote of the committee to report the bill is announced here. The committee ordered reported the Safe Drinking Water Amendments of 1979 on May 11, 1979 by unanimous voice vote.

Evaluation of Regulatory Impact

The Safe Drinking Water Act by its nature is a regulatory program. It is intended to have a substantial impact on the quality of drinking water supplied to consumers. The reported bill confers no additional regulatory authority on the Administrator of the Environmental Protection Agency. Funds authorized in this bill will give increased support to State public water supply supervision and underground protection programs.

In addition to existing or proposed regulations, the Administrator must write new rules to implement the demonstration project grant program authorized in this bill. The impact of this requirement on drinking water suppliers is expected to be negligible.

The committee believes that the benefits derived from this regulatory program will justify the costs imposed on water suppliers and their customers.

Cost of Legislation

Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510) requires publication in this report of the Com-

mittee's estimate of the costs of reported legislation, together with estimates prepared by any Federal agency.

The committee's estimates are as follows: For fiscal year 1980, $59.6 million; fiscal year 1981, $69.1 million; and fiscal year 1981, $81.6 million. There were no agency estimates submitted.

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. That report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 14, 1979.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for a bill to amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act, to extend for 3 fiscal years the authorization for appropriations and for other purposes.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 14, 1979.

1. Bill number: Not yet assigned.

2. Bill title: A bill to amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act, to extend for 3 fiscal years the authorization for appropriations and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, May 10, 1979.

4. Bill purpose: The bill authorizes the appropriation of $59.2 million for fiscal year 1980, $69.1 million for fiscal year 1981 and $81.6 million for fiscal year 1982 to the Environmental Protection Agency (EPA) for carrying out its responsibilities under the Safe Drinking Water Act. For fiscal year 1980, the bill authorizes $21.4 million for research, collecting relevant information and training of personnel for primary enforcement responsibilities, $29.0 million for grants to States for public water suspension programs, $7.8 million for grants for underground water source protection programs, and $1.0 million for demonstration projects for abatement and control of drinking water contaminants. The appropriation in fiscal year 1979 for these program activities is $53.0 million, and the President's fiscal year 1980 budget request is $58.65 million.

5. Cost estimate:

(By fiscal years, in millions of dollars)

Authorization level:	
Fiscal years:	
1980	59.2
1981	69.1
1982	81.6
1983	-----
1984	-----
Estimated outlays:	
Fiscal years:	
1980	26.2
1981	52.9
1982	70.5
1983	42.9
1984	13.8

The costs of this bill fall within budget subfunction 304.

6. Basis of estimate: The authorization levels stated in the bill are assumed to be appropriated for each fiscal year. The outlays are estimated by applying a 4-year aggregated spendout rate of 45 percent the first year, 39 percent the second year, 12 percent the third year and 4 percent the fourth year to the authorized levels specified in the bill.

7. Estimate comparison: None.

8. Previous CBO estimate: A cost estimate was prepared on May 14, 1979 for the corresponding House bill, H.R. 3509, as ordered reported by the House Committee on Interstate and Foreign Commerce. That bill provided a higher authorization of $66.7 million for fiscal year 1980, as well as higher authorizations for fiscal years 1981 and 1982.

9. Estimate prepared by: James V. Manaro.

10. Estimate aprpoved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In accordance with subsection (4) of rule XXIX of the Standing Rules of the Senate, the committee recommends the following changes in existing law made by the bill as reported (existing law proposed to be omitted is enclosed in black brackets; new matter is underlined; existing law in which no change is proposed is shown in roman):

A new subsection (e) is added to section 1444 of the Public Health Service Act to read as follows:

SEC. 1444(e) *The Administrator shall establish demonstration projects for the abatement and control of drinking water contaminants, including both synthetic, organic and inorganic substances, in water supply systems serving 5,000 persons or less. For purposes of this subsection, there are authorized to be appropriated $1,000,000, which shall remain available until expended.*

The committee also recommends amending section 1442(e) as follows:

SEC. 1442(e) There are authorized to be appropriated to carry out the provisions of this section other than subsection (a)(2)(B) and

provisions relating to research $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; $35,000,000 for the fiscal year ending June 30, 1977; [and] $17,000,000 for each of the fiscal years 1978 and 1979; *$21,405,000 for fiscal year 1980; $24,647,000 for fiscal year 1981; and $30,485,000 for fiscal year 1982.* There are authorized to be appropriated to carry out subsection (a)(2)(B) $8,000,000 for each of the fiscal years 1978 [and 1979] *through 1982.*

The bill also amends section 1443 of the Public Health Service Act as follows:

SUBSEC. (a)(7) For the purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1977, $35,000,000 for fiscal year 1978, [and] $45,000,000 for fiscal year 1979; *$29,000,000 for fiscal year 1980; $30,000,000 for fiscal year 1981; and $35,943,000 for fiscal year 1982.*

SUBSEC. (b)(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1977, [and] $10,000,000 for each of the fiscal years 1978 and 1979; *$7,795,000 for fiscal year 1980; $14,453,000 for fiscal year 1981; and $15,172,000 for fiscal year 1982.*

[From the Congressional Record, Aug. 3, 1979]

SENATE DEBATE ON S. 1146

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1146.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1146) entitled "An Act to amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), to extend for three fiscal years the authorization for appropriations, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. (a) The first sentence of **subsection (e) of section 1442** of the Public Health Service Act (42 U.S.C. 300j–1(e)) is amended by striking out "; and" and substituting a semicolon and by inserting the following before the period at the end thereof: "; $21,450,000 for the fiscal year ending September 30, 1980; $30,000,000 for the fiscal year ending September 30, 1981; and $35,000,000 for the fiscal year ending September 30, 1982".

(b) The second sentence of such subsection (e) is amended by striking out "and 1979" and substituting "through 1982".

SEC. 2. (a) Paragraph (7) of **subsection (a) of section 1443** of the Public Health Service Act (42 U.S.C. 300j–2(a)(7)) is amended by striking out "and" and by inserting the following before the period at the end thereof: ", $29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982".

(b) Paragraph (5) of **subsection (b)** of such section is amended by striking out "and $10,000,000" and substituting "$10,000,000" and by inserting the following before the period at the end thereof: ", $7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982".

SEC. 3. Paragraph (2) of **subsection (f) of section 1441** of the Public Health Service Act (42 U.S.C. 300j(f)) is amended by striking out "1979" and substituting "1982".

Amend the title so as to read: "An Act to extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act".

Mr. CULVER. Mr. President, I have long believed that the Environmental Protection Agency (EPA) has not been sufficiently committed to helping small and rural communities develop effective and economical drinking water purification systems.

Among a community's most important assets is an adequate supply of good quality drinking water. Both its physical and economic well-being are diminished if its water is unsafe for human consumption. The Safe Drinking Water Act (Public Law 93–523), enacted by Congress in 1974, recognized this basic fact by directing EPA to develop drinking water standards to protect the public health and welfare.

The Safe Drinking Water Act, however, does not authorize construction grants to help communities meet the cost of upgrading their drinking water systems. These improvements must be borne by the communities themselves. This puts a particularly severe financial burden on small towns with fewer financial resources to utilize. A number of Iowans who reside in small and rural communities have told me about the difficulty of assuring safe, affordable water in these areas.

We need to develop economical and efficient water treatment systems that are applicable to small communities. While EPA has undertaken some research and development work on small system technologies—including aeration and resin absorption—the Agency has not carried out this vital task in a systematic way. EPA must determine whether

these treatment methods are adaptable to small community water systems. The Agency should also increase its technical assistance program so that these technologies can be made available to the communities which urgently need them.

During consideration of the reauthorization of the Safe Drinking Water Act by the Environmental Pollution Subcommittee, I offered an amendment which authorized EPA to spend $1 million for demonstration projects to assess new or alternative treatment methods for water purification systems serving towns with populations of 5,000 or less.

This amendment would enable EPA to test systems that may be applicable throughout small towns and rural America, and would allow communities to have safe drinking water at affordable costs. This would be of significant benefits to a State like Iowa, in which more than 90 percent of the State's communities are under 5,000 in size.

My amendment was accepted by the subcommittee, and subsequently passed by the Environment and Public Works Committee. Although some members of the House Commerce Committee supported my amendment, and would have likely included a similar provision on the floor, the House of Representatives passed the Safe Drinking Water reauthorization under suspension of the rules, a parliamentary device which does not permit amendments to be added to the original committee bill.

Mr. President, I am pleased to state that the EPA recognizes the need, and fully supports the goal, of providing more assistance to small communities seeking to improve their drinking water systems. Yesterday, I received assurances from EPA Administrator Douglas Costle, that the Agency will implement a small community water system demonstration program using funds already allocated to it. EPA will direct a minimum of $1 million to this effort, and will help small towns acquire the equipment and trained personnel necessary to get this program under way. Thus, the Agency is committed to instituting the program originally mandated by the Culver amendment to the Safe Drinking Water Act. As a result, my amendment is not part of the legislation the Senate is considering today.

The implementation of the demonstration program first called for by the Culver amendment will help meet a pressing need of rural areas and small towns, and assures that safe, high quality drinking water will be available to all Americans. EPA will now accelerate development of efficient and economical treatment technologies so that the drinking water needs of these communities can be achieved. I am confident that Iowa and other predominantly rural States will apply for funding under this innovative and worthwhile program.

Mr. MUSKIE. Mr. President, today, the Senate is again considering S. 1146, the 1979 amendments to the Safe Drinking Water Act. These amendments were passed by the Senate in June. The House of Representatives acted on this legislation earlier this week.

The bills passed by the Senate and House of Representatives are nearly identical. They conform closely to the suggested amendments proposed by the administration earlier this year. Several differences should be noted.

The bill as passed by the House of Representatives, the bill which is before the Senate today, does not contain an amendment authored by Senator Culver. That amendment was designed to encourage the Environmental Protection Agency to dedicate additional resources to de-

veloping affordable treatment technologies for small community water supply systems. This was a good provision. However, EPA has agreed to pursue this research program under existing authorities. It is a credit to Senator Culver for raising this issue. Clearly, his legislative work has borne fruits in the administration of this program.

A second difference in the bills passed by the two Houses of Congress is the provision of an emergency fund in the House bill. The House bill maintains authority in present law to fund emergency clean-up efforts in public water supply systems. **[Sec. 1(b); Sec. 1442(e) SDWA]** The administration omitted this from its recommendations pending the enactment of the "superfund" legislation. Due to the delay in enactment of a comprehensive compensation and liability program for chemical spills, this authority is necessary. It will provide needed flexibility to the Administrator of the Environmental Protection Agency to deal with localized emergency water contamination problems.

The House bill provides somewhat higher program authorization levels than did the Senate bill. This increment will give EPA the resources necessary to fully implement the drinking water program in States which have not assumed primacy. This is consistent with congressional intent. This legislation authorizes EPA to administer all elements of the program, including enforcement, monitoring, information collection, granting of variances and exceptions in the absence of a State program.

The 1962 Public Health Standards for drinking water were voluntary. The 1974 Safe Drinking Water Act mandated uniform national regulations. In enacting the 1974 act, the Congress intended States to assume primary enforcement responsibility, or primacy, once minimum standards had been met. Meeting national standards in the absence of State primacy is the responsibility of the Environmental Protection Agency. In short, the added authorization provides necessary operating room to manage these responsibilities effectively.

The House bill also provides somewhat higher authorizations for the underground injection control program. The administration figures, upon which the Senate bill was based, contemplated only 22 States participating in the program. That assumption is no longer valid. At present, EPA anticipates that all 50 States will be included in the program. Supervision of programs in all of the States and territories will make even the higher House authorization inadequate. These sums will be stretched, but it is clear they will be effectively employed in this program.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate agree, en bloc, to the amendments of the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

[From the Congressional Record, May 22, 1979]

SENATE DEBATE ON S. 1146

The bill (S. 1146) to amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), to extend for 3 fiscal years the authorization for appro-

priations, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows: **[S. 1146, see text, pages 89–90]**

* * * * * * *

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–161), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

GENERAL STATEMENT

The Federal approach to regulation of drinking water has been an evolutionary process. Starting with quarantine regulations in the 1920's and the interstate carrier program in the 1940's, the Public Health Service began prescribing methods necessary to prevent the introduction, transmission, or spread of communicable diseases. The Public Health Service guidelines, promulgated in 1962, gave valuable direction to communities and other water suppliers. Under Reorganization Plan No. 3 of 1970, the authority to establish and revise drinking water standards for interstate carriers was transferred to the Administrator of the Environmental Protection Agency. Subsequently, the Environmental Protection Agency adopted the 1962 Public Health Service guidelines.

The approach of the Public Health Service, however, proved inadequate.

First, the guidelines were not enforceable.

Second, each State had the flexibility to determine the scope of its water systems protection. Many State, regional and local governments failed to develop, apply, or enforce applicable standards. The General Accounting Office, the Conference of State Sanitary Engineers, the Environmental Protection Agency, and several public interest investigators, have documented the inadequacy of water system quality control efforts. They found that treated water was frequently below standards.

Third, the Federal standards failed to address the many cancer-causing chemical compounds in drinking water supplies. Toxic organic and inorganic chemicals are commonly found at high levels in raw water. But the legal authority to issue standards requiring their removal was not exercised.

Fourth, underground sources of drinking water were not adequately protected either by the Public Health Service standards or by the Federal Water Pollution Control Act. Poisoning of water supplies linked to underground injection had been documented in many instances. Public agencies such as the Bureau of Mines, the U.S. Geological Survey, and several States, responsible companies, and the public at large became concerned about the substantial hazards associated with deep well injection of contaminants and the increasing reliance on deep well injection for disposal of wastes, chemicals, and industrial byproducts.

It was against this backdrop that the Congress enacted the Safe Drinking Water Act of 1974. In order to deal with public drinking water, and ground water contamination and waterborne disease, the act directed the Environmental Protection Agency to establish a preventive program to protect the public from known and potential hazards. Briefly, this program involved:

(1) promulgation of national primary (health) and secondary (aesthetic) drinking water standards;

(2) promulgation of standards to guarantee the integrity of ground water sources of drinking water;

(3) development of an effective enforcement program in cooperation with State governments, giving this responsibility primarily to the States; and

(4) implementation of a strong health effects and technology research effort.

The Environmental Protection Agency, with the assistance of the States, the water supply industry, and active and concerned members of the public, has taken the first steps toward implementing this program. National primary and secondary drinking water standards have been established. These standards serve as the basis for the first nationwide program of monitoring public water supplies.

The Safe Drinking Water Act envisions States assuming primary enforcement responsibility, or primacy, for public water systems. EPA grants primacy condi-

tions on a State's adoption of drinking water regulations at least as stringent as the national standards, on the State's showing that it has adequate administrative capability to enforce the program, and on a showing that the proper record-keeping requirements will be met. To date, 40 States have met these requirements. Hence, the anticipated State-Federal partnership is a fact.

The act has provided for the training of thousands of municipal plant operators across the Nation. It has also set in motion scientific examination which promises improvements in treatment technology for the future, as well as advancement in the understanding of the relationship between drinking water, its components, and human health.

Finally, the public notification program is operating successfully. Complacency about safe water supplies is being replaced by educated concern about human health hazards.

These steps while commendable, are only a beginning. Results from available health research dictate that additional effort must be invested in the task of removing cancer-causing chemicals from community water supplies. To date, more than 700 organic chemicals have been measured in drinking water samples. Many of these are known to be cancer-causing or otherwise hazardous, such as vinyl chloride, benzene, carbon tetrachloride, trichloroethylene, chloroform, Kepone, and PCB's. But the vast majority have not yet even been tested to determine their toxicity.

The act requires that EPA adopt a preventive health posture in regulating contaminants. This requires that uncertainties be resolved on the side of protecting public health. With chemicals whose side effects may not become manifest for a generation after exposure, this means regulations cannot be withheld until danger is conclusively proven. The Environmental Protection Agency must include organic chemicals in the regulatory scheme of primary drinking water regulations.

This goal was clearly envisioned by the authors of the Safe Drinking Water Act. As Judge Leventhal of the U.S. Court of Appeals for the District of Columbia stated. '[T]he legislative history [of the State Drinking Water Act] contains abundant evidence that Congress intended the rapid implementation of broad mandatory controls over impurities." *Environmental Defense Fund* v. *Costle*, 578 F. 2d 337, 343 (D.C. Cir. 1978).

The act and its accompanying reports reflect serious concern about the effects of introducing industrial chemicals into this society. The 1974 House report noted: "The committee intends that the revised regulations contain a *comprehensive* (emphasis added) program of control of drinking water contamination." The Senate and House committee reports leave no doubt about the urgency of including organic chemicals in this comprehensive strategy. The need for this effort was highlighted in President Carter's Environmental Message of 1977. EPA, he declared, must "* * * set standards under the Safe Drinking Water Act which will limit human exposure to toxic substances in drinking water, beginning with potential carcinogens." This need to act has been underscored by the almost daily news reports of toxic chemical spills, discovery of hazardous waste sites, and industrial and municipal discharges into ground and surface water supplies.

Also of critical importance is the full implementation of the act's ground water protection program. Five years after the passage of the Safe Drinking Water Act, the Agency has only recently reproposed rules for underground injection activities. It has taken this long for EPA to define the environmental problems associated with underground injection activities, to devise an appropriate regulatory strategy, to consider and incorporate public comments into proposal form, and to integrate these proposed regulations with provisions of other operative laws. It is essential to promulgate these important rules expeditiously in order to stop the indiscriminate disposal of potentially harmful wastes underground.

ADMINISTRATION TESTIMONY AT SENATE HEARING

REAUTHORIZATION OF THE TOXIC SUBSTANCES CONTROL ACT, SAFE DRINKING WATER ACT, AND THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

MARCH 19 1979

SERIAL NO. 96-H10

Printed for the use of the Committee on Environment and Public Works

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

REAUTHORIZATION OF THE TOXIC SUBSTANCES CONTROL ACT, SAFE DRINKING WATER ACT, AND THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

MONDAY, MARCH 19, 1979

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 4200, Dirksen Senate Office Building, Hon. Edmund S. Muskie (chairman of the subcommittee) presiding.

Present: Senators Muskie, Stafford, Chafee, and Simpson.

* * * * * * *

STATEMENT OF THOMAS C. JORLING, ASSISTANT ADMINISTRATOR FOR WATER AND WASTE MANAGEMENT, ENVIRONMENTAL PROTECTION AGENCY, ACCOMPANIED BY VICTOR KIMM, DEPUTY ASSISTANT ADMINISTRATOR FOR DRINKING WATER; AND JOHN T. RHETT, DEPUTY ASSISTANT ADMINISTRATOR FOR WATER PROGRAM OPERATIONS

Mr. JORLING. Thank you, Mr. Chairman. I have been assigned three of the subjects that you described, the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act, and the Municipal Waste Water Treatment Construction Grant program.

* * * * * * *

Turning now to our safe drinking water program, on February 23 of this year, EPA sent to the Congress a draft bill to extend our safe drinking water authorities for 2 years.

As you know, our authorities for this program are contained in Title XIV of the Public Health Service Act, the "Safe Drinking Water Act," which expires on September 30, 1979.

Our proposed bill provides appropriation authorization for our nonresearch activities, including training and technical assistance, the establishment and revision of primary and secondary drinking water regulations, State grants for public water system supervision programs, promulgation of regulations and issuance of State grants to protect underground drinking water sources, and assumption by EPA of primary enforcement responsibilities in those States which have opted for Federal enforcement of drinking water programs. The proposed bill would also extend the authority of the Federal Government to insure that adequate supplies of chemicals used in drinking water treatment are made available.

We recommend that the Congress enact this legislation so that we may continue our efforts to insure a safe and adequate supply of public drinking water.

As you know, two major EPA programs were launched with enactment of the Safe Drinking Water Act in December 1974. One was an effort to insure the safety of the Nation's public water supplies and the other to protect underground sources of drinking water from contamination through injection wells.

We believe significant strides have been made in bringing water treatment practices throughout the country up to national standards. With the assistance of the States, the water supply industry, and active and concerned members of the public, we believe that our progress in this area represents a new dimension of environmental control and public health protection.

I would like to highlight briefly for you now the progress we have made and the problems we have encountered in the implementation of our safe drinking water authorities.

The national interim primary drinking water regulations have been established and serve as the basis for the first nationwide program of monitoring of public water supplies.

As intended by the Congress, the States have become genuine partners in this effort. Forty of them have changed their laws and regulations to match Federal requirements, thus making them eligible for primary enforcement reponsibility as provided in the Safe Drinking Water Act, as amended.

Approximately six additional States are expected to achieve primary enforcement responsibility before the end of fiscal year 1979. A current listing of the primacy States appears at the end of my statement. We have worked closely with the States in implementing the public water system supervision program. We were very pleased by the favorable testimony of the Conference of State Sanitary Engineers delivered before this committee during its oversight hearings last year as well as on the House side.

To date, more than $70 million in State program grants have been awarded. In addition, the States have increased their own expenditures for water supply programs by almost a third. Prior to the enactment of the Safe Drinking Water Act, annual expenditures at the State level amounted to about $16 million. In fiscal year 1979, the State level investment, combining Federal grants and State appropriations, totaled more than $47 million. State staffs have doubled and their programs have been substantially expanded.

Tens of thousands of water plant operators have been trained in the regulatory requirements and in the skills and knowledge they need to achieve compliance. Local officials and the general public are better informed than ever before on the issues of drinking water quality. This informational and educational program has been conducted by EPA and the States with the grant-supported assistance of the American Water Works Association, Conference of State Sanitary Engineers, the League of Women Voters, and other nonprofit organizations of State and local governments.

Public notification is working very well. As required by the Act, violations of the regulations are being reported to consumers. Corrections and improvements in water treatment plants may be attributed, in some part, to increased public awareness generated by the public notice requirement.

Many violations are being corrected without the need for enforcement action. These corrections are being made as cooperative efforts among EPA, the States, local communities, and the utilities.

The public notice provision of the Act has also significantly increased public participation in problem-solving efforts and is facilitating the steady improvement of water quality throughout the country with a relatively small expenditure of EPA resources. As more experience is gained, we believe that the public notification requirement will prove to be a success in innovative legislation.

The National Drinking Water Advisory Council, mandated by the Act, has played an important role in the development of regulations and program activities, insuring that the program moves

forward with the active participation of the States, the industry, and the general public. The efforts of this group have contributed greatly to the public recognition of the fact that this program is generally responsive to outside suggestions.

In short, much has been accomplished in the few years since the Act was passed. However, the legislatively mandated research and other studies have clearly established that we are a long way from eliminating all concerns about drinking water. More time and effort are needed to bring State staffs and program operations to their optimal levels. Upgrading utilities and operators to acceptable levels of proficiency will require an ongoing program of technical assistance.

We know that the scope of the interim drinking water standards will have to be expanded to include organic chemicals and other contaminants indicated by accumulated data and ongoing scientific research. The Act, in fact, requires revised standards to be promulgated, based on recommendations of the National Academy of Sciences. The NAS determined that it was not scientifically possible to determine no-adverse-effect levels for some drinking water contaminants.

Therefore, EPA will have to conduct additional research studies to develop more comprehensive standards. The President's 1980 budget request includes a $5 million initiative to move forward on public health related research to improve standard setting.

Before moving on to report on the ground water protection programs, let me dwell for a moment on a particularly significant current activity: our proposed regulations to limit organic chemicals in drinking water.

ORGANICS

The question of organic chemical contamination of drinking water was one of the motivating forces in the passage of the Act.

Since 1975, it has been a major focus of our program. About one-half of our research effort has been invested in monitoring techniques, health effects, control technology, costs, and economic impacts related to the control of organic contaminants in drinking water.

In February of 1978, the agency proposed a regulation to control organic contaminants, addressing the two parts of the problem: First, a family of organic chemicals called trihalomethanes, including chloroform, which are formed during the process of disinfection with chlorine of water containing naturally occurring precursor material; and, second, the presence of a multitude of other potentially harmful manmade organic compounds caused by industrial pollution and agricultural and urban runoff into our drinking water sources.

The proposed regulation was divided into two parts in response to the two problems. Trihalomethanes, which are widely prevalent, are subject to a maximum contaminant level of 100 parts per billion. This standard would initially apply to all systems serving populations of 75,000 or more and can be met by many techniques available to the utilities.

90-224 O - 82 - 8

The second part of the regulation is directed to a wide range of synthetic organic chemicals that may be present in small amounts in some water supplies. Communities of 75,000 or more whose water supplies are vulnerable to this sort of contamination would be required to install granular activated carbon or some equivalent technology. This approach to controlling potentially harmful contaminants was expressly provided in the Act for situations in which it is not technically and economically feasible to monitor for the contaminants of concern.

For both parts of the regulation, it is anticipated that coverage will be extended to all-sized systems as soon as it is feasible to do so.

This is the situation in which we find ourselves. The NAS, in its report, "Drinking Water and Health," listed 22 known or suspected carcinogens that have been found in some drinking waters. Other possible carcinogens will undoubtedly be found as monitoring and toxicology studies continue.

Since "safe" or "no risk" levels cannot be determined for carcinogens, we must try to reduce human exposures to those chemicals as much as feasible. We have attempted to deal with this problem in our proposal by means of a treatment requirement for GAC or an equivalent technology to remove a broad spectrum of synthetic chemicals.

However, this requirement would be enforced only when the required monitoring indicates that a given water supply is vulnerable to this sort of contamination. Where this is not the case, the utility would be granted a variance and would not have to introduce granular activated carbon or equivalent technology into its treatment processes.

Where significant contamination is found, the regulation, as proposed, would provide for a period of design and pilot studies to determine the most effective and economical treatment methods for particular local problems. Additional time is allowed for any necessary construction.

Generally speaking, water utilities and State regulatory agencies have been skeptical of the health basis of the proposal and of the new direction in water treatment technology proposed in response to the presence of synthetic compounds—the mandatory use of granular activated carbon. Considerable concern has also been expressed about the costs of introducing this new technology.

Indeed, comments on these concerns were made by both House and Senate appropriations committees in July and August of last year.

During that same period, EPA prepared a "White Paper" in response to the most common objections and published it in the Federal Register for additional public review and comment as a supplement to our proposed regulations. I want to assure the committee that we are considering every comment we have received on this issue in our review of the more than 300 oral comments presented at eight public hearings and the 600 written statements received during the public comment period.

It is important to note, I think, that the motivating forces behind acting to control organic chemicals include the legislative history of the act and congressional concerns about organic contaminants,

a court order to the effect that the statutes obliges us to take action, and the mandate in the President's Environmental Message of May 1977, which called for EPA "to set standards under the Safe Drinking Water Act which will limit human exposure to toxic substances in drinking water, beginning with potential carcinogens."

There is still much to learn, and our research effort will continue in evaluating risks, toxicology, analytical chemistry and treatment technology.

Nevertheless, in proposing these regulations, the agency was persuaded that there is sufficient information to conclude that there are serious long-term health risks from the ingestion of some organic compounds and that these risks call for regulatory action under the act. Human exposure should be reduced to the extent that it is economically and technologically feasible to do so. It is noteworthy that this view is supported by the National Cancer Institute, the National Institute of Environmental Health Sciences, the Food and Drug Administration, and the Occupational Safety and Health Administration.

In September, we received the NAS review of the preliminary epidemiological studies on organics in drinking water as they related to health risks. The report was consistent with EPA's position in the proposed regulation that the studies have certain deficiencies. They did not establish causality but were useful in generating the hypothesis that there might be a relationship, albeit small, between chloroform and bladder cancer incidence.

To determine whether or not the hypothesis is valid, more detailed studies, taking into account confounding factors such as smoking, occupation, and coffee consumption, would have to be performed. The NAS cautioned that even in further studies, effects might not be distinguishable from the confounding factors.

Thus, we must rely primarily on the generally accepted scientific interpretation of the results of animal feeding studies.

The final provisions of the regulations have not as yet been formulated. We are just now completing our study of the voluminous comments and recommendations that were made. It is our intention to consider every suggestion carefully and to develop a program that will reflect the best thinking of science, industry, and public health policymakers.

Thus, it is our hope that the final regulations, which should be promulgated this summer, will win the support of all involved and be recognized as an historic first step in the reduction of human exposure to the long-range threat of chemical contamination of drinking water.

In this context, it should be noted that the proposed regulations complement EPA's other efforts to reduce human exposure to toxic pollutants under the authorities provided by the Clean Water Act of 1977, the Resource Conservation and Recovery Act, and the Toxic Substances Control Act. Additionally, the organics regulation is not the only issue in the protection of the public health through drinking water.

The future is studded with issues and questions that must be researched and addressed: the control of corrosion in distribution systems, which adds heavy metals to some water supplies; a better

understanding and control of other potentially harmful constit ents in some drinking water sources, such as asbestos; and, the soi water/heart disease and sodium/hypertension questions.

All this means is that the safe drinking water program is in the early stages of a new era in water treatment standards and technology. We do not have all the answers, for the questions are only beginning to take shape. We do know that the Safe Drinking Water Act has stimulated the Nation to reflect on the complex relationship between drinking water and the public health.

GROUNDWATER PROTECTION

Launching the groundwater protection program has been more difficult and time-consuming than anticipated at the time the legislation was enacted. The major obstacles have been: A lack of basic data on almost every aspect of the problem; the complexity of coordination with other environmental statutes, most recently the 1977 Clean Water Act Amendments and the Resource Conservation and Recovery Act; and, finally, because there are literally thousands of wells to be regulated, we must exercise great care in regulating controls and projecting probable social and economic impacts.

Three actions in the groundwater protection program merit your attention. First, regulations to control the underground injection of contaminants were proposed in August 1976. Based on extensive public comment, they have been substantially revised, especially in relation to oil and gas injection practices and shallow wells. We expect to repropose these regulations very shortly, as they are now in the very final stages of agency review prior to reproposal for public comment.

Second, the grant regulations required to begin the flow of Federal program grants to the States were promulgated on October 12, 1978. The first round of grants to States are currently being negotiated.

Finally, on September 25, 1978, the Administrator published in the Federal Register the initial States designated as requiring an underground injection control program. We expect to list all of the remaining States by May 1980.

We have launched a nationwide assessment of surface impoundments (pits, ponds, and lagoons) and their potential for contaminating groundwater. That program is being conducted by the States using Federal grants. The final report of this effort is expected in June 1980.

The final regulations governing the designation of sole source aquifers will be promulgated shortly. Incidentally, under the sole source aquifer provision, four designations have been made and nine additional petitions are under review.

In short, we have now reached the threshold of a comprehensive program of action to protect the Nation's groundwater resources. Getting to this point has been tedious and difficult, but we believe an effective, coordinated Federal-State effort has been developed and made ready for implementation.

In regard to both the groundwater protection program and the public water system supervision program, we have been pursuing a

vigorous policy of coordination and integration with related programs in EPA and in other agencies. A few of these initiatives warrant the committee's attention.

For example, we have been developing a consistent approach to groundwater protection that integrates section 1421 of the Safe Drinking Water Act, subtitle C and D of the Resource Conservation and Recovery Act, and section 208 of the Clean Water Act. Regulations being developed under these provisions will be complementary and nonduplicative, offering an efficient mix of authorities to control the pollution of groundwater.

We have also begun the consolidation of the permit program regulations for the National Pollutant Discharge Elimination System program under the Clean Water Act, the Hazardous Waste program under RCRA, and the Underground Injection Control program under the Drinking Water Act.

These regulations, which will be proposed for public comment in the next few months, will provide for consistent requirements for all three permit programs as well as consistent procedures for State delegations to the maximum extent consistent with applicable status.

Joint headquarters efforts to meet requirements of the Safe Drinking Water Act Amendments of 1977 and the Federal Water Pollution Control Act Amendments of 1977 are also underway.

There will be a study to assess available data on water supply demand and water supply usage, now and over the next 15 to 20 years. The study will consider conservation measures and reuse and will make recommendations on preparing facilities plans on the basis of anticipated water supply needs.

As required by section 516(e) of the Clean Water Act, EPA will be submitting a report to the Congress together with legislative recommendations on a program to coordinate the planning of water supplies and wastewater treatment projects.

EPA is also working with the Food and Drug Administration to clarify responsibilities for the control of direct and indirect additives to drinking water. A memorandum of understanding delineating the responsibilities of the two agencies is being drafted and will be signed in the next few months as soon as the details can be completed. One of the related activities is a project to be begun by the National Academy of Sciences to create a Codex, quality standards for bulk chemicals used in water treatment.

Another interagency effort is an agreement with the Indian Health Service to coordinate efforts of both agencies to insure that Indians receive the full benefits of the Safe Drinking Water Act and Indian Health Service programs.

It is appropriate on this occasion to report on the agency's progress with respect to research efforts and special studies mandated by the Act and its 1977 amendments. A complete listing of completed studies is appended to this statement as attachment III. A few highlights merit attention.

During the past year approximately $15 million has been spent on a varied research program including short- and long-range health effects studies as well as studies of improved analytical methods and treatment techniques. For example, animal and epidemiological studies have been conducted to examine the relationship

be ween diseases such as cancer and cardiovascular disease and drinking water quality.

EPA is also in the process of completing two other studies stipulated in the act. The first of these is a study of viruses in drinking water. Our final report on this is in final preparation for forwarding to the Congress. Second, we are completing work on the final draft of an interim report on the Rural Water Survey to be submitted to Congress before the final report is due at the end of 1979.

We have initiated several studies required by the 1977 amendments to the Safe Drinking Water Act, which include:

A study of water treatment costs including alternative compliance methods and the pros and cons of available financing methods, as well as the need for additional Federal subsidies in the future; a study of the present and projected future availability of an adequate and dependable supply of safe drinking water; a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water; and a study of the reaction of clorine and humic acids and the effect of resulting contaminants on human health.

In concluding my remarks about our safe drinking water program and its authorizing legislation, let me say that we believe the Safe Drinking Water Act is basically sound and effective.

It does not need any broad reconsideration at this time which would lead to major amendments. We believe it deserves more time and experience in implementation before judgments can be made on changing it.

However, there are few minor matters of timing and procedure that warrant attention at this time when the authorizations are being extended. Unintended obstacles in the administration of the program, particularly to the States, are being caused. A brief summary of several of these needed amendments are set out in attachment IV.

* * * * * * *

That concludes my remarks, Mr. Chairman. I would be glad to go back and answer any questions for the committee.

[Attachments to Mr. Jorling's statement follow:]

ATTACHMENT I

STATUS REPORT ON STATE ASSUMPTION OF PRIMARY ENFORCEMENT RESPONSIBILITY (PRIMACY) FOR PUBLIC WATER SYSTEM SUPERVISION PROGRAM UNDER THE SAFE DRINKING WATER ACT
as of February 22, 1979

I. Present States with Primacy - 40 States.

Oklahoma	Massachusetts
Connecticut	Texas
Louisiana	Michigan
Mississippi	Maryland
Nebraska	North Dakota
Alabama	Florida
Arkansas	Wisconsin
Georgia	Nevada
New York	Kansas
Virginia	Montana
Iowa	Idaho
Minnesota	Washington
Tennessee	California
South Carolina	New Mexico
Maine	Delaware
Hawaii	West Virginia
Kentucky	Colorado
New Hampshire	Alaska
Rhode Island	Trust Territories of Pacific Islands
Guam	
Arizona	

II. Following States are Expected to Assume Primacy in FY 79.

New Jersey	Ohio
Virgin Islands	Missouri
Puerto Rico	Vermont

III. Following States are Projected to Assume Primacy in FY 80.

Illinois	Utah
North Carolina	American Samoa
Northern Mariana Islands	

IV. States Without Primacy Intentions.

Indiana	District of Columbia
Pennsylvania	South Dakota
Oregon	Wyoming

ATTACHMENT II

STATES DESIGNATED AS REQUIRING AN UNDERGROUND INJECTION CONTROL PROGRAM

TEXAS
PENNSYLVANIA
LOUISIANA
CALIFORNIA
KANSAS
MICHIGAN
ILLINOIS
WYOMING
NEW YORK
OHIO
OKLAHOMA
WEST VIRGINIA
INDIANA
NEW MEXICO
FLORIDA
KENTUCKY
UTAH
COLORADO
MISSISSIPPI
IOWA
ARIZONA
ARKANSAS

ATTACHMENT III

LISTING OF STUDIES MANDATED BY THE SAFE DRINKING WATER ACT

- Report to Congress -- Preliminary Assessment of Suspected Carcinogens in Drinking Water in December 1975.
- Impact on Underground Sources of Application of Pesticides and Fertilizers in 1976.
- Report to Congress -- Waste Disposal Practices and their Effects on Groundwater in January 1977.
- Drinking Water and Health, a study of the National Academy of Sciences, in June 1977.
- Impact of Abandoned Wells on Ground Water in August 1977.
- Underground Injection Methods Which Do Not Endanger Underground Water Sources in December 1977.
- Surface Impoundments and their Effects on Ground Water Quality in the United States -- a Preliminary Survey in August 1978.
- Identification of Potential Contaminants of Underground Water Sources from Land Spills in August 1978.

ATTACHMENT IV
SUMMARY OF PROPOSED AMENDMENT TO THE
SAFE DRINKING WATER ACT

State Primacy

For the States to maintain primacy and eligibility for continued grants, they must have regulations at least as stringent as the Federal regulations. When the Federal regulations change, as they are expected to do this summer, the States must introduce the same changes. In many cases, their administrative and legislative procedures will not permit them to act fast enough. Therefore, EPA will be compelled by the Act to discontinue its grants, withdraw primary enforcement responsibility, and take over those programs. This problem could be avoided if the Act allowed the States up to two years to modify their regulations.

Exemptions

We propose that the statutorily imposed compliance deadlines of 1981 and 1983 be changed. Among the reasons for this recommendation are the difficulties being experienced by some utilities, particularly in small communities, in achieving compliance, and the fact that it took longer to promulgate the interim regulations than anticipated in the Act. We believe that the seven-and nine year exemption periods provided for the revised regulations should also apply to the interim regulations. This added flexibility should not delay compliance where it is feasible, but rather simply provide more time where it is necessary.

Underground Injection Control Program

The Act calls for State programs to prohibit any injection practice not covered by permit or rule to be in effect in December, 1977. Since it is impossible for this deadline to be met, it would seem fair to change the statute by allowing States up to five years after their programs are approved to impose this prohibition.

Another UIC deadline requiring adjustment is State eligibility for grant funds. Under the existing grant provisions, a State's eligibility for funding expires two years from the date of its first grant, unless it has assumed primacy. Since grants will have been awarded to States to allow them to undertake some program activities even though the section 1421 regulations have not yet been promulgated, funding will expire while the States are still working towards assumption of primacy. This amendment would tie the two year eligibility period to the date the regulations are promulgated, rather than to the first grant.

* * * * * * *

Senator STAFFORD. Mr. Chairman, I have a number of questions.

Mr. Jorling, I understand that to control the harmful level of synthetics for chemicals in drinking water, the EPA has proposed a technology-based standard for adding granular-activated carbon in the water system serving over 75,000 persons.

In addition, EPA proposes a maximum containment level of 100 parts per billion for trihalomethanes. At least these regulations will not apply to any systems in my State—Vermont doesn't have cities with such a large population. It's largest city has a population considerably less than 75,000. Does EPA plan to expand these regulations to cover small systems? Does EPA have any estimate of what the small water users may be expected to develop?

Mr. JORLING. There are several questions there, Mr. Stafford. The first question is the expectation of the agency with respect to the regulation's applicability to smaller than 75,000. Yes, it is our intention that the regulations would be expanded in a downward direction as soon as possible. Let me expand some.

We are talking here about applying a new set of requirements on public water utilities in the communities themselves. They are new in more than just that reference. They are new in the state of the art, as well. If I could have you look—Vic, could you run that up—to give you an idea of what kind of thing we are talking about. What is coming up is a chart on the quality of water. This is done through the technology referred to as it is our judgment communities above 75,000 can and will have the professional competence to understand that their program has some degree of security and does not affect other projects.

So we have to have a certain minimum of professional character in these utilities before we can ask them to go into this kind of sophistication. Another reason is that the technology involved is best at the higher end of the system. They are weakest at the smaller end of the system. We do not feel it is prudent to place a commitment on small communities until we have an idea of what the impact will be. A third point is that the smaller communities, on a national basis, draw their water from other-than-vulnerable surface water supplies.

So if they do draw from small supplies, there are alternatives, such as groundwater, available to them to furnish the guarantees they need. But we do expect to send it down.

With respect to the cost estimates, we have preliminary studies to do that, but our focus in now on the larger systems.

Senator STAFFORD. At this point in time, you have probably not decided how far downward you wish to go in numbers below 75,000?

Mr. JORLING. The final judgment has not been made. I should point out with respect to the proposed regulations on trihalomethanes we do have a requirement on those communities between 10 and 75,000, and that requirement is a monitoring requirement that will then enable the second-echelon distinction to be made, but they will have to monitor for the presence of trihalomethanes under the proposed regulations.

Senator STAFFORD. You have been quite successful in encouraging States to adopt primary enforcement responsibility for the public water system supervision program. Could you describe for us your activities in those States which have declined to adopt primacy?

How will you supervise public water systems in States such as Vermont, whose legislatures have failed to enact federally improved standards?

Will your efforts be more pronounced once the September 30, 1979, deadline for primacy has passed?

Do you have the resources to effectively run a program in non-primacy States?

Mr. JORLING. The first part of that—this compares with almost 10 States. The States have been more willing in this area to extend primacy. There was an attachment to my prepared remarks which listed both the actual and projected primacy situations. In that attachment there was an error, and the error was in the omission of some States, including Vermont, Wisconsin, Utah, and South Dakota.

If I can direct your attention to that chart, Vermont is one of the States we expect, during 1979, will assume primacy. In addition, Illinois, North Carolina, Wisconsin, and South Dakota will do it in 1980.

Our efforts in these States is to work generally with the existing States or with the Governors' offices or bring together the technical assistance, as well as the financial assistance, to indicate the value in States of assuming primacy responsibility. We have been successful. I think Vermont is a firm—it is a firm projection for 1979.

Senator STAFFORD. I hope your information is accurate.

Mr. KIMM. We are hopeful, sir. What we have done is in a number of the primacy States is established a series of memoranda of understanding where we share responsibility with the States where they are willing to do with or without primacy.

Some States indicated early in the game they could not take the program under any circumstances. Pennsylvania, Indiana, and Oregon, are the first that come to mind.

Mr. JORLING. And a variety of States were not sure.

Mr. KIMM. There were specific memoranda of understanding worked out and joint responsibility established. During the interim period, we have been working with the State personnel. Generally speaking, those cooperative efforts have been quite successful.

In a number of States that were very reluctant to become involved have come around and are continuing to come into the program.

Mr. JORLING. One final point—we do have the ability to implement the program in States that have not assumed primacy, namely the ones listed in categories 4 and 5 and in category 3.

* * * * * * *

Senator MUSKIE. Senator Simpson?

Senator SIMPSON. Thank you very much, Mr. Chairman.

Mr. Jorling, there is obviously a great awareness that there are many companies that have complained about the proposed regulations, and one issue that comes back a bit to what Senator Stafford referred to—one issue complicating the debate—is how many systems might be affected. I understand there are about 49 or more systems serving populations of more than 75,000 which would be affected initially and, yet, I perceive according to EPA's cost analysis, that only 61 to 78 systems will be required to install the GAC treatment facilities, whereas the rest would be variances from the requirement. And there has been criticism by various groups, including the National Drinking Water Council, criticizing the various criteria as too vague.

I understand EPA has not been willing to give informal indications or any form of indication, really, to water providers, whether they will be eligible for a variance. And I guess my questions are:

Is EPA willing to firm up its variance criteria, or identify the systems which will be affected?

Mr. JORLING. The regulations were proposed last spring. We received public comment from many organizations and interests, including the one you mentioned. One of the issues that was directly commented on was the clarity of the various criteria.

It is safe to say as a result of those comments the agency, in its review of the comments, is focusing on that. It is our effort, as it always has been our effort, to be as clear and unambiguous as possible. So the answer to your question very simply is, yes.

Senator SIMPSON. And the words are appearing unambiguous?

Mr. JORLING. I wouldn't say technically what would be clear and unambiguous. We would think that just a commonsense threshold is not possible. There will have to be professional judgment that will have to be made.

Senator SIMPSON. I like that statement on a commonsense standard. That is just too bad.

Mr. JORLING. To give you some idea many of those listed on that particularly printout are known carcinogens, and some of them have high peaks in parts of present petroleum range. No one can write rules for the whole world that says where the line should be drawn.

Senator SIMPSON. Are the costs of obtaining variances and doing the necessary testing and the necessary paperwork, are those figured into the EPA's cost estimate?

Mr. JORLING. Yes; they represent a small amount of money. One of the most distressing things, as we moved into the area was the fact that none of the water utilities had ever monitored their water for these types of contaminants. We think they should be looking for these contaminants, as well as the other four essential metals.

But as far as particular costs of running the required monitoring and the record writing for the various procedures we have analysis which I think we can make available which show it is not a big ticket item.

Mr. SIMPSON. I would appreciate having that. Might the aggregate of deciding which system—only the most flagrant cases—and not require all systems to install GAC or obtain the various——

Mr. JORLING. The most flagrant is the kind we are trying to avoid, because we don't know what that means. The 390 number is the total universe of water supplies serving over 75,000 people. What we are establishing is a set of rules for national applicability

that correspond to that universe of population above 75,000 and our estimate for the systems requiring GAC treatment for both trihalomethane and the synthetics regulations. Our projection is that about 61 systems would have to apply GAC. Our cost estimates were based on this projection. There may be ways other than installing GAC that systems may be able to use to eliminate synthetic organic contaminants and qualify for variances thus avoiding the need for GAC. Let me give you an example.

Where the monitoring shows one very peak of a known carcinogen in drinking water, the alternatives are to put in a carbon system or eliminate that contaminant at its source. If they can find that source and abate it, they don't have to install GAC.

From that simple case study where you have one carcinogen in the drinking water, you can go to a system that has 700 chemicals. Then the criteria for judgment becomes more difficult.

Senator SIMPSON. So really under that standard they will be joining in the investigative role in the municipalities?

Mr. JORLING. Some of the best programs have been where they have found out where the contaminant is coming from and cured that.

Senator SIMPSON. In your statement you say, "On September 25, 1978, the Administrator published in the Federal Register the initial State designated as requiring an underground injection control program." And you have listed 22 States requiring underground injection control programs under part C of SDW Water A Act.

Assuming a State refused to accept primacy, would you describe to me what programs would be necessary in order to prohibit injection?

Mr. JORLING. Let me make a statement about the 22. The universe of underground programs includes oil and gas, injection of chemicals, shallow wells, and other kinds of circumstances. In the first effort at developing these regulatory structures, most of EPA's attention was focused on the oil and gas related injection wells, so the original listing of 22 was directed at those States which had oil and gas activities.

Under statutes like the Safe Drinking Water Act, if a State does not assume primacy it is EPA's responsibility to carry out the program. If there are substantial numbers of States that don't, we are forced to make priority judgments about the ones that need the earliest attention. But we would carry out the underground injection program in States that do not assume primacy.

Senator SIMPSON. I know the one in Wyoming will have primacy in 1980, although I don't recall legislation moving toward that, anyway, at least in the current statute.

Mr. KIMM. The expectation of what a State will or will not do is pretty speculative. Regulations are just now about to be reproposed. Obviously there are is a lot of uncertainties about how States will react to any more programs. Nevertheless, we would expect that the State would continue the program it has, certainly as it relates to oil and gas, in lieu of having a Federal program superimposed.

Senator SIMPSON. We get into the State that does not assume primacy and then we will have to observe the funding requirement especially if it comes to personnel training program, especially since those programs have to be funded by the Federal Government.

Thank you very much.

Senator MUSKIE. Thank you very much.

I have some questions on drinking water and ocean dumping issues which I will submit for the record.

[Responses to Senator Muskie's questions follow:]

QUESTIONS SUBMITTED BY SENATOR EDMUND MUSKIE ON
SAFE DRINKING WATER, MARCH 19, 1979 REAUTHORIZATION HEARING,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Question 1. The proposed regulations to control organic contaminants and trihalomethanes (THM) set different treatment requirements for large and small water systems. Is there a health justification for this distinction?

Answer: The proposed organics regulations included phased coverage beginning with systems serving populations greater than 75,000. Coverage would be extended to smaller systems over time based on the experience in the larger systems and the ability of EPA and the States to provide technical assistance to the smaller systems.

Our rationale for beginning with the larger systems is our belief that such systems have the technical, financial, and managerial expertise to comply initially and that the 390 systems above the size cut-off serve slightly more than half of all Americans served by public water systems. Finally, this strategy recognized the existing limited capacity for the sophisticated monitoring necessary to implement the proposed regulation.

A number of comments received during the public comment period suggested broader initial coverage for the regulations. The Agency will be considering this before promulgating these regulations.

Question 2. What would be the effect of limiting EPA regulatory authority under the Safe Drinking Water Act to controlling only those contaminants which are proven to be a significant threat to human health?

Answer: In our view, restricting EPA's regulatory authority under the Safe Drinking Water Act would not be consistent with the preventive health philosophy of the SDWA. The Administrator has sufficient leeway in the SDWA, as interpreted by the Court of Appeals in EDF vs. Costle to exercise judgment to identify and deal with contaminants where a potential risk exists. One need not wait until actual human illness has occurred, as is implied from the phrase, "proven to be a significant threat." If the SDWA were amended to shift the burden of proof to adverse health effects, all regulatory efforts to reduce human exposure to carcinogens would probably be terminated. Virtually all public health concerns about low-level exposure to carcinogens are based on indirect animal testing data. To significantly alter the "burden of

proof" would open up endless litigation by those opposed to regulation. Moreover, it would threaten what has been a major public health principle for the last decade--namely that the contaminants which produce elevated cancer rates in test animals also pose a risk to humans, and involuntary exposure to such chemicals should be reduced to the degree it is feasible to do so. EPA does not believe that the public interest would be served by requiring us to wait to regulate until actual human illness has occurred, especially with respect to long-term adverse impacts which may take decades to show up.

Question 3. What would be the effect of prohibiting EPA from mandating treatment technologies for public water supply systems under the Safe Drinking Water Act?

Answer: A prohibition from "treatment requirements" in the SDWA would be unduly restrictive. In our view, the authors of the SDWA correctly concluded that there might be situations where analytical technology would be unable to pinpoint specific contaminants, and these situations could be dealt with by application of known effective treatments. A good example might be virus contamination, where sampling methods are expensive and imprecise, but where conventional treatment with disinfection provides a high degree of public health protection. This view that treatment techniques are appropriate under the SDWA has recently been supported by the Conference of State Sanitary Engineers which represents many of the States participating in the program.

Question 4. Have you or your staff communicated with the Council on Wage amd Price Stability staff concerning the EPA organics regulations since the close of the comment period?

Answer: Yes. Original CWPS comments were signed on the last day of the comment period (September 1, 1978). EPA received them about four days later (September 5, 1978). An interim response was prepared in the Agency on or about September 8. A formal response dated November 6, 1978, was sent which included a technical evaluation of the CWPS report. A meeting was held between EPA/Office of Drinking Water and CWPS staff early in January, 1979, in order to clarify technical issues and assumptions. CWPS sent a January 31, 1979, response to ODW which amended the original report. A second meeting between CWPS and ODW was held February 28, 1979, to discuss the practicality and utility of the CWPS approaches. Discussion touched on the organics regulations, but focused mainly on the general applicability of the approach. All of these exchanges are documented in

the public record related to the proposed organics regulations. The agency will respond to the Council's comments in the final regulation.

Question 5. On page 11 of your prepared remarks, you referred to the States as "genuine partners" in enforcement of the Safe Drinking Water Act. What incentives are there in the Act to maintain full State participation in the program once initial State program assistance grants are no longer available?

Answer: Other than the program assistance grants, there are no specific incentives in the Act for the States to maintain their public drinking water supervision programs. However, the current national State drinking water programs, in conjunction with media coverage of spills of toxic substances, underground injection, nuclear energy, etc., have raised the level of public consciousness and concern for the quality of drinking water. Some programs did exist at the State level prior to enactment of the Act, and Federal assistance has allowed these programs to become an effective force for public health.

Question 6. What has been EPA's experience in enforcement of the Safe Drinking Water Act? Can you recommend statutory changes to facilitate enforcement?

Answer: As the Committee knows, the Act was written with a provision for self enforcement known as public notification. In the event of a violation under the Act, the operator of a public water supply is required to give notice to its consumers. It is intended that consumer involvement would keep pressure on the utility to provide water which meets all applicable standard. To date, we know that thousands of public notices have been issued and that prompt remedial actions have resulted in some cases. Efforts to assess the effectiveness of public notifications are underway. Beyond public notice, the Act provides a very limited tool to deal with non-compliance. EPA may suggest additional measures, such as administrative orders in the future, once current studies are concluded.

Question 7. Please explain why the Administration has requested no extension for the authorization for demonstration project grants (Section 1444(c) of the Safe Drinking Water Act).

Answer: In FY 1979, Congress appropriated $8.0 million for reuse demonstration projects. The Agency is currently working with grantees in the development of their project designs. These projects will probably be initiated in FY 1980. In light of this time schedule, the Agency believes that it would be inappropriate to request an extension of authorization of Section 1444(c) at this time.

Question 8. In your prepared statement (page 25) you mentioned a study on national water supply and demand. When will this report be released?

Answer: Under the provisions of Section 1442(c) of the Safe Drinking Water Act, the EPA Administrator is required to submit this report to Congress by May, 1979. However, Section 516(e) of the Clean Water Act contains several provisions for a study of similar issues, with transmittal of that report by December, 1979. In view of the overlapping issues, the Office of Drinking Water and the Office of Program Operation decided to combine these requirements into a single study and report to make the most efficient use of available EPA resources. The study schedule is consistent with the December, 1979 requirement and the report to Congress will be transmitted by the statutory date, December 27, 1979.

* * * * * * *

Senator MUSKIE. I'm sure other Senators will have questions to submit to you, Mr. Jorling.

Mr. JORLING. We will be glad to answer them for the record.

[Responses to additional questions follow:]

RESPONSES TO THE QUESTIONS OF SENATOR LLOYD BENTSEN AS FOLLOW-UP TO MARCH 19 OVERSIGHT HEARING, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Question 1: What have EPA risk analyses on the proposed organics regulations shown? How do they compare with other risk analyses for other regulations?

Answer: Analyses on those compounds for which data exist indicated there are contaminants with carcinogenic potential. The trihalomethanes (THM's) best represent those contaminants. THM's are only a fraction of the disinfection products (10%-20%). However, twenty-eight cases of cancer could be avoided each year due to control of THM's alone. The risk from other organic contaminants controlled by the regulation would also decrease.

EPA has conducted these risk analyses on the proposed organics regulation in a way similar to and commensurate with the Interagency Regulatory Liaison Group (IRLG) approach. In essence, three types of evidence were used, including: 1) epidemiological studies; 2) experimental animal evidence; and 3) evidence from studies of chemical structure and short-term tests which correlate with carcinogenic activity.

With respect to comparisons with other risk analyses, there has been no accepted protocol for such analysis. Therefore, it is not possible to make direct comparisons. However, the Directors of NCI and NIEHS, individuals who are familiar with many such analyses, are on record supporting the basis for the regulations.

Question 2(a): Has EPA studied how much it might cost to monito- suspected synthetic organics using available techniques?

Answer: The cost of monitoring is, of course, a function of the number of chemicals being studied, the complexity of the analysis, and the sampling frequency.

90-224 O - 82 - 9

The cost of a trihalomethane analysis from a contract laboratory can range from $25 to $100 per sample. The cost of a gas chromatography scan for low molecular weight halogenated chemicals would cost approximately $200 per sample. A broad spectrum GC/Mass Spectrometry scan could cost from $1,000 to $10,000 per sample depending upon the number of contaminants and the intensiveness of the effort. Cost could be lower if each water supply purchased its own equipment and performed its own analyses on a routine basis.

Question 2(b): The risk posed by synthetic organic chemicals is a long-term chronic health risk. If monitoring regulations imposed scientific methods of random sampling, how often would sampling have to be performed to adequately protect public health?

Answer: It is impossible to compute the appropriateness of random sampling schemes. This question is certainly not unique to organic chemicals in water since it is a function of the variation in the parameter being measured and the desired confidence in the reported value. The problem of determining the appropriate random sampling frequency is an old issue. We are exploring possibilities in this area, since this was suggested in the public comments on the regulation.

Question 2(c): Is it EPA's position that it is not economically feasible to monitor synthetic organic contaminants (as MCL's)? And, if so, would EPA kindly submit to the Committee a synopsis of the evidence that led to this conclusion?

Answer: EPA stated in the February 9, 1978 Federal Register notice of proposed rule-making:

Monitoring for the list of chemical indicators is feasible for the limited purpose of determining whether a public water system's raw water supply is subject to significant contamination by synthethic organic chemicals and thereby eligible for a variance from the treatment technique. However, the combined costs of monitoring for even all known synthetic organic chemicals to determine specific levels of such contaminants as would be required for judging compliance with a lesser number of MCL's would be clearly excessive and thereby unreasonable.

To amplify, EPA feels that to monitor for the sixty or so indicators of organic pollution might be possible on a system by system basis, if done once by EPA in order to determine the justification for a variance. However, it is technologically infeasible to monitor for even these compounds on a routine basis, much less for a larger subset of the 700 compounds identified in water. At present, monitoring techniques do not exist for most of the 700 contaminants. In addition, it would be extremely expensive to monitor for such contaminants, even if it were technically feasible.

Therefore, the treatment technique requirement rests not on economic considerations so much as on monitoring infeasibility.

Question (3): During your testimony, you suggested that two likely alternatives face those communities that have organic contaminants in their drinking water -- the mandated treatment technique of granular activated carbon or removal of the contaminant at its introduction to the drinking water supply. Since the contaminant would likely be an industrial outfall, you indicate that it will be fortuitous that the Safe Drinking Water Act requirements will coincide with the Best Available Technology (BAT) requirements of the Clean Water Act; thus, EPA will have an ally, in the water suppliers, in compelling industry to move toward BAT discharge limitations. However, I can perceive a somewhat different scenario. As I recall, the full description of BAT is Best Available Technology Economically Achievable (BATEA). It would seem highly possible that the approach used to determine the existence of an organic contaminant in drinking water could well require a granular activated carbon system on a water supply system when further reduction under BATEA at the industrial source would not be required. The outcome of your perception, that EPA and the water supplier would join forces to pressure the industrial source, would seem to me to be protracted and divisive litigation rather than a reduced contaminant at no cost to the water supplier. Since the driving force on this entire concept is the EPA selection of the requirement to apply a treatment technique for organic contaminants rather than some maximum contaminant level, I would like your thoughts on this second scenario and what alternatives you see to avoiding it.

Answer: EPA does not envision any new requirements over and above those of the Clean Water Act, as a direct result of coordination of wastewater control and drinking water regulation. It is probable that there will be some litigation as a result of the implementation of the Clean Water Act. However, there is no reason to believe that there will be an increased amount of such litigation, due to a realization that control of upstream dischargers will have a positive effect on downstream water supply intakes. In any case, there will always be some downstream supplies which will need carbon treatment. However, for some cases, it is clearly forseeable that they will encourage every possible no-cost solution to reducing ambient pollution before they consider applying carbon treatment, such as bringing local pressure on recalcitrant upstream dischargers. In addition, water suppliers will look for opportunities to coordinate improvements in municipal discharges and non-point source contamination control. Litigation is not a natural result of such coordination efforts.

RESPONSES TO THE QUESTIONS OF SENATOR DANIEL MOYNIHAN
IN CONNECTION WITH REAUTHORIZATION HEARING,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
MARCH 19, 1979

Question 1: When do you contemplate the promulgation of the final safe drinking water regulations? What kind of implementation deadline are you considering?

Answer: Promulgation of the regulations for organic chemicals is expected in early summer 1979. We are considering implementation 18 to 24 months after promulgation.

Question 2: Have you performed an analysis of which public water supply systems in New York State would be required to implement the proposed standards? If so, would you supply for the record which systems these are and what is the total cost of implementation of the standards for these water supply systems?

Answer: We have not specified which water systems in any State would be required to implement regulations for synthetic organic chemicals. The proposal included a procedure for the state to make the judgment of which systems would be considered to be using sources subject to significant contamination. It was estimated that perhaps 50 of the 390 large water systems around the country might be in that category.

Question 3: Is EPA considering the establishment of programs to aid communities both financially and technically in meeting the safe drinking water standard?

Answer: EPA is developing a technical assistance program to provide information for public water systems attempting to deal with organic chemicals. This would include assistance with analytical chemistry and pilot test studies. We have no plans or means for financial assistance at this time other than funding for some research grant activities. EPA is conducting a major study of the need for added Federal subsidies required by the 1977 amendments to the Safe Drinking Water Act. The report is due to be transmitted to the Congress in early Fall of this year.

Question 4: Is EPA considering any provision in the guidelines for meeting the safe drinking water standards that will allow communities facing financial difficulty to comply with the standards in an economically feasible schedule?

Answer: Exemptions are provided in the Safe Drinking Water Act to defer the implementation when it is not technically and economically feasible. However, at present, the Act stipulates that exemptions from interim regulations expire in 1981.

Question 5: It is my understanding that the technology standard of granulated activated carbon (GAC) has never been utilized in a facility as large as a water filtration plant. Have you considered the feasibility of initiating a large scale pilot demonstration project before the standards are scheduled to go into effect?

Answer: Among the many suggestions received during the public comment period was the initiation of large scale demonstration projects prior to the effective date of a regulation. We are considering this possibility. Several projects are underway and another is being considered. The timing of this regulation has not been determined.

* * * * * * *

Response to Senator Chafee on Safe Drinking Water
For March 19, 1979 Hearing Record
Senate Committee on Environment and Public Works
Subcommittee on Environmental Pollution

Question: Scientists fear that GAC itself may pose a threat to human health. Some of the dangerous possibilities that have been mentioned are:

-- extensive bacteria growth can occur on GAC

-- whether certain toxic substances are created when GAC is used

-- whether turbidity is effectively controlled by GAC

-- whether heavy metals or polynuclear hydrocarbons leach from virgin GAC

-- whether GAC causes air or water pollution

Could you comment on these dangers and whether you plan to investigate the possibility of such dangers prior to requiring nationwide investment in GAC?

Answer: Based on our assessments to date, none of the dangers mentioned represents a significant problem nor do any outweigh the benefits of the use of GAC in drinking water treatment.

However, the questions posed do raise important issues which we asked the Safe Drinking Water Committee of the National Academy of Sciences to address in depth last year. A report on their findings is expected later this spring. We will forward a copy of this report on to Senator Chafee when it becomes available. In the interim, we are enclosing

an EPA report, Operational Aspects of Granular Activated Carbon Adsorption Treatment, which discusses in a comprehensive fashion all of Senator Chafee's concerns.

To respond briefly to the Senator's five specific questions, we offer the following comments.

-- extensive bacteria growth

At least 50 communities use carbon filters in the United States. Bacterial growth does occur and it is controllable. In some systems it is considered beneficial in increasing the chemical removal capability of GAC.

-- whether certain toxic substances are created when GAC is used

We are not aware of toxic substances being created on GAC. The purpose of GAC is to concentrate and remove chemicals from water. If the GAC is not reactivated, some of the chemicals will eventually be returned to the water.

-- whether turbidity is effectively controlled by GAC

Turbidity is very effectively controlled by GAC, usually better than by conventional filtration.

-- whether heavy metals or polynuclear hydrocarbons leach from virgin GAC

Polynuclear aromatic hydrocarbons are readily removed from water by GAC. Trace amounts of metals are present in GAC, but they are not mobile. GAC can also remove some metals from water. We see no significant risks.

-- whether GAC causes air or water pollution

Technology exists and is used to prevent pollution from the manufacture or reactivation of GAC.

Union Calendar No. 109

96TH CONGRESS
1ST SESSION

H. R. 3509

[Report No. 96–186]

To extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1979

Mr. WAXMAN introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

MAY 15, 1979

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

A BILL

To extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The first sentence of subsection (e) of section 1442 of the Public Health Service Act (42 U.S.C. 300j–1(e)) is amended by striking out "; and" and substitut-

ing a semicolon and by inserting the following before the period at the end thereof: "; $21,405,000 for the fiscal year ending September 30, 1980; $30,000,000 for the fiscal year ending September 30, 1981; and $35,000,000 for the fiscal year ending September 30, 1982".

(b) The second sentence of such subsection (e) is amended by striking out "and 1979" and substituting "through 1982".

SEC. 2. (a) Paragraph (7) of subsection (a) of section 1443 of the Public Health Service Act (42 U.S.C. 300j–2(a)(7)) is amended by striking out "and" and by inserting the following before the period at the end thereof: ", $29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982".

(b) Paragraph (5) of subsection (b) of such section is amended by striking out "and $10,000,000" and substituting "$10,000,000" and by inserting the following before the period at the end thereof: ", $7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982".

SEC. 3. Paragraph (2) of subsection (f) of section 1441 of the Public Health Service Act (42 U.S.C. 300j(f)) is amended by striking out "1979" and substituting "1982".

96TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
No. 96-186

SAFE DRINKING WATER ACT AUTHORIZATIONS

REPORT

BY THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Together With

MINORITY VIEWS

[To accompany H.R. 3509]

[And including cost estimate of the Congressional Budget Office]

MAY 15, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HARLEY O. STAGGERS, West Virginia, *Chairman*

JOHN D. DINGELL, Michigan
LIONEL VAN DEERLIN, California
JOHN M. MURPHY, New York
DAVID E. SATTERFIELD III, Virginia
BOB ECKHARDT, Texas
RICHARDSON PREYER, North Carolina
JAMES H. SCHEUER, New York
RICHARD L. OTTINGER, New York
HENRY A. WAXMAN, California
TIMOTHY E. WIRTH, Colorado
PHILIP R. SHARP, Indiana
JAMES J. FLORIO, New Jersey
ANTHONY TOBY MOFFET, Connecticut
JIM SANTINI, Nevada
ANDREW MAGUIRE, New Jersey
MARTY RUSSO, Illinois
EDWARD J. MARKEY, Massachusetts
THOMAS A. LUKEN, Ohio
DOUG WALGREN, Pennsylvania
ALBERT GORE, JR., Tennessee
BARBARA A. MIKULSKI, Maryland
RONALD M. MOTTL, Ohio
PHIL GRAMM, Texas
AL SWIFT, Washington
MICKEY LELAND, Texas
RICHARD C. SHELBY, Alabama
SAMUEL L. DEVINE, Ohio
JAMES T. BROYHILL, North Carolina
TIM LEE CARTER, Kentucky
CLARENCE J. BROWN, Ohio
JAMES M. COLLINS, Texas
NORMAN F. LENT, New York
EDWARD R. MADIGAN, Illinois
CARLOS J. MOORHEAD, California
MATTHEW J. RINALDO, New Jersey
DAVE STOCKMAN, Michigan
MARC L. MARKS, Pennsylvania
TOM CORCORAN, Illinois
GARY A. LEE, New York
TOM LOEFFLER, Texas
WILLIAM E. DANNEMEYER, California

W. E. WILLIAMSON, *Chief Clerk and Staff Director*
KENNETH J. PAINTER, *First Assistant Clerk*
CHRISTOPHER E. DUNNE, *Counsel*
LEWIS E. BERRY, *Minority Counsel*

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

HENRY A. WAXMAN, California, *Chairman*

DAVID E. SATTERFIELD III Virginia
RICHARDSON PREYER, North Carolina
ANDREW MAGUIRE, New Jersey
THOMAS A. LUKEN, Ohio
DOUG WALGREN, Pennsylvania
BARBARA A. MIKULSKI, Maryland
PHIL GRAMM, Texas
MICKEY LELAND, Texas
RICHARD C. SHELBY, Alabama
JOHN M. MURPHY, New York
HARLEY O. STAGGERS, West Virginia
(Ex Officio)
TIM LEE CARTER, Kentucky
EDWARD R. MADIGAN, Illinois
DAVE STOCKMAN, Michigan
WILLIAM E. DANNEMEYER, California
GARY A. LEE, New York
SAMUEL L. DEVINE, Ohio
(Ex Officio)

ELLIOT A. SEGAL, *Staff Director*

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 96-186

SAFE DRINKING WATER ACT AUTHORIZATIONS

MAY 15, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 3509]

together with

MINORITY VIEWS

[Including cost estimate of the Congressional Budget Office]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 3509) to extend for 3 fiscal years the authorizations for appropriations under the Safe Drinking Water Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

H.R. 3509 is a simple extension of the authorites of the Safe Drinking Water Act (title XIV of the Public Health Service Act.)[1] The bill authorizes appropriations for three fiscal years for activities of the Environmental Protection Agency relating to: Abatement and control of contamination of drinking water sources; assistance to States in creating and sustaining public water systems supervision programs; and creation and maintenance of underground water source protection programs. Additionally, the bill would extend the authority under which water treatment chemicals can be allocated in time of scarcity. This bill would enable the Environmental Protection Agency to continue its work in mitigating and controlling contamination of sources of drinking water by establishing national

[1] The bill does not pertain to the research and development activities of the Office of Water Supply of the Environmental Protection Agency.

drinking water regulations and by providing assistance, both financial and technical, to the States in meeting those regulations.

Basis for the Legislation

In 1974 Congress passed the Safe Drinking Water Act as a result of concern about the quality of drinking water throughout the country. This concern eminated from the plethora of dangerous chemical contaminants found in, or suspected to be in, sources of drinking water and the absence of mandatory, uniform water quality regulations. At that time there were no mandatory national regulations to assure uniformity in the quality of potable water; drinking water quality was ostensibly governed by voluntary regulations issued by the Public Health Service in 1962. In 1974, 66 organic chemical contaminants had been identified; today over 700 organic chemical contaminants have been identified and the number is growing. In fact, those substances identified represent only about ten percent of the organic chemical contaminants believed to be in some drinking water sources.

The Safe Drinking Water Act requires the Administrator to promulgate national primary drinking water regulations.[2] The Act promotes a Federal-State partnership by providing grants for public water system supervision programs for States that assume primacy over their public water systems: a State attains primacy by adopting drinking water regulations which are at least as stringent as the Federal regulations and by implementing a program to monitor and enforce those regulations. If a State chooses not to participate in the program or does not maintain primary enforcement responsibility over its public water systems, EPA will enforce Federal drinking water regulations. To date, 41 States and territories have indicated they will participate in the program and have assumed primary enforcement responsibility for their public water systems.

The act also directs the Administrator to promulgate minimum Federal requirements for the protection of underground sources of drinking water.[3] Those States that are directed to adopt underground injection control programs in order to protect ground water are eligible for Federal assistance once they assume primary enforcement responsibility for underground water sources (or will assume such responsibility within two years of the initial grant). Continued Federal assistance is predicated upon the States' assumption and maintenance of primary enforcement responsibility for underground water sources within the State. To date, 22 States have been designated as requiring underground injection control programs; Maryland has decided to implement such a program. EPA intends to designate the remaining States as requiring underground injection control programs by the end 1980.

---

[2] Interim primary drinking water regulations were proposed in March of 1975, promulgated in June of that year and became effective in June 1977. They apply to coliform bacteria, turbidity, ten inorganic chemicals and six organic chemicals and set maximum contaminant levels for radionuclides. On February 9, 1978, EPA proposed an amendment to the interim primary drinking water regulations dealing with additional organic contaminants. The proposed regulation sets a maximum contaminant level of 100 parts per billion for total trihalomethanes (formed when chlorine and humic materials interact in raw water) and establishes a treatment technique, granular activated carbon or other equally effective process, for synthetic organic chemical contaminants which are residues of manmade chemical wastes which end up in drinking water. This regulation is expected to be promulgated this summer after the Agency analyzes voluminous materials generated during the extended comment period.

[3] On August 31, 1976, EPA proposed underground injection control regulations pursuant to Part C; however these regulations were withdrawn in order to further study the problem of protecting ground water. On April 20, 1979, underground injection control regulations were reproposed. There will be a public comment period of 120 days followed by another 120-day period for Agency analysis of comments. The regulations should be promulgated by January, 1980, with an effective date two years after promugation.

The committee views this period as a crucial time for the Safe, Drinking Water Act because the Environmental Protection Agency, through its Office of Water Supply, has started to move out of the formative stages of program development into administration of a very important public law that touches all our lives. Most States have either assumed primacy over public water systems or have indicated an intention to do so. By June of 1979, monitoring requirements for all contaminants will be in effect for community, as well as non-community systems. Within the next year, the Office of Water Supply should be in a position to determine the status of ground-water and surface water supplies throughout the country and to devise a strategy for assisting States in administering effective and efficient public water system supervision and underground injection control programs.

The committee expects that the annual report on programmatic activities of the Agency will attempt to portray accurately the status of drinking water throughout the country and determine, for instance, how many small, medium and large systems are in compliance with the interim primary drinking water regulations. The committee expects that, as the phased monitoring requirements of the interim primary drinking water regulations take effect, the Agency will begin to compile and assess information about drinking water quality gleaned from the various phases of the monitoring process and will report its findings to the committee at the earliest opportunity.

Specifically, the monitoring requirements for bacteria for community ground-water and community surface water became effective in June of 1977. How many systems have difficulty meeting this standard? How many systems are in compliance? What is the incidence of waterborne illness as a result of noncompliance? What special problems are faced by small systems? Similarly, the monitoring requirements for inorganic contaminants applicable to community surface water were to be completed by June of 1978. How many systems have met this requirement? What is the status of inorganic contamination in various-sized systems? How many systems meet all or most of the standards? What problems are indigenous to small or medium-sized systems? The committee expects that these and other questions pertaining to the status of drinking water sources throughout the country will be addressed by the Agency in its forthcoming annual report and subsequent reports. The committee intends to undertake an independent evaluation of the determinations of the Agency on these and other pertinent issues.

The committee is particularly interested in the record of compliance of public water systems, especially small systems. The committee expects that those systems that are unable to attain the interim primary drinking water regulations will avail themselves of exemptions under section 1416 of the act.[4] The committee expects the Agency to work with primacy States to identify all small systems that are not in

[4] The Act also provides for a variance from the regulations, but this provision is to be used in only two very limited circumstances. First, only if a system cannot meet maximum contaminant levels despite application of the most effective treatment methods is it eligible for a variance. Second, a variance may be granted from the use of a treatment technique if it can be demonstrated that such treatment is not necessary to protect the public health because the system's raw water is substantially cleaner than minimum intake requirements. The committee intends the application of this provision be carefully limited to circumstances which fall within the above strictures. The Committee expects the forthcoming annual report of the Administrator and subsequent reports will discuss the number of variances issued by primacy States (and, as the case may be, by the Administrator) and the reasons for their issuance. The Committee intends to examine this area in detail during oversight hearings.

compliance with the act and make every diligent effort to begin the process whereby those systems apply for an exemption, negotiate compliance schedule and implement requisite control measures. The committee expects the Administrator to employ all available devices and remedies to assure compliance with the provisions of the act. The committee further expects the Agency's annual report to discuss in detail the application of section 1416 of the act to public water systems: The number of exemptions issued and the circumstances of issuance and the number of cases where systems are not in compliance and have not applied for an exemption (and the reasons therefore). The committee intends to examine in detail the administration of this section of the act in oversight hearings.

The Environmental Protection Agency is in the process of formulating regulations on two very important issues: the control of organic chemical contaminants in drinking water and the protection of underground sources of drinking water. Because these regulations are in a formative stage, the committee feels it would be inappropriate to draw conclusions on the merits of either proposal. However, the committee feels that Agency action on both regulations should be expeditious.

The committee notes that the Safe Drinking Water Act was born of widespread concern over organic chemical contaminants in sources of drinking water. Modern scientific devices have shown this contamination to be far more ubiquitious than originally feared. Two recent studies have indicated the presence of organic chemical contaminants in many cities throughout this country. The National Organics Reconnaissance Survey, concluded in 1975, investigated the occurrence of trihalomethanes and other chemicals in drinking water in 80 communities. Examination of finished water supplies revealed the existence of many organic compounds; in fact a total of 129 organic compounds were detected at least once. A more recent survey, the National Organics Monitoring Survey of 113 cities, conducted in 1976 and 1977, demonstrated that trihalomethanes have the greatest occurrence (compared to other organic compounds) in finished water. Additionally, a large number of organic compounds were detected at lower levels in a substantial number of cities. In 1977, the National Academy of Sciences identified 22 substances found in some sources of drinking water as known human or animal carcinogens (Drinking Water and Health, May 1977). We are on the frontier of our ability to identify and quantify toxic organic chemical contaminants of drinking water and must redouble our commitment to prevent these substances from intrusion into our drinking water and to remove them upon their discovery.

We are a society possessed of sophisticated technological and industrial know-how. Yet through industrial dumping and other inefficient and ineffective effluent disposal practices we have managed to contaminate valuable sources of drinking water, both surface and ground. A classic example of industrial contamination of surface water which had a direct impact on drinking water was the carbon tetrachloride spill in the Ohio River, the source of drinking water for at least 1.8 million people in several States and over 450,000 people in the city of Cincinnati alone. Shortly after the spill, significant amounts of carbon tetracholride were detected in Cincinnati's drinking water. Additionally, dumping of toxic chemical wastes such as occurred at Love Canal, Niagara Falls, N.Y., and the "Valley of the Drums," near Louisville, Ky., poses a direct and substantial threat to all

sources of drinking water. At the March 26, 1979, hearings, witnesses from Mahwah, N.J., and the New Jersey Department of Environmental Protection testified that ground-water, once generally believed to be a relatively pure source of drinking water, was subject to contamination by organic chemcial contaminants. A witness from the New Jersey Department of Environmental Protection indicated there are several cases of well contamination similar to Mahwah's throughout New Jersey. It is a well stated principle of hydrology that even if the source of contamination can be identified (which is often very difficult) and abated, a valuable source of drinking water may be lost forever.

The committee intends to examine carefully the problems faced by small systems in meeting interim drinking water regulations and in dealing with organic chemical contamination of drinking water.

The second area which continues to consume a significant amount of the Agency's attention is the development and reproposal of underground injection control regulations. These regulations seek to control a wide variety of industrial and other activities which contaminate or pose a threat of contamination of actual and potential sources of drinking water. The committee feels regulations to protect underground sources of drinking water are necessary and are overdue. Ground water moves but a few feet per year and it is very difficult, if not impossible, for a contaminated aquifer to be recharged or purged of its contamination. The Second National Water Assessment of the United States Water Resources Council entitled "The Nation's Water Resources—1975–2000" states at page 64:

> Inasmuch as 40 percent of the population derives drinking water from ground water sources, pollution, whether real or potential, is of significant concern, not only from a public health standpoint but also from an economic standpoint . . . Once an aquifer becomes polluted, recovery from that pollution usually is slow because of the generally slow rate of ground-water movement through the aquifer. Hence, groundwater pollution may be considered a semipermanent condition, perhaps lasting for years after the source of the pollution has been located and the pollution stopped.[5]

The committee intends to devote oversight attention to determine the efficiency of the proposed underground injection control regulations. The committee is particularly concerned that the regulations which pertain to wells for the production of oil and gas assure the appropriate balance between the protection of underground sources of drinking water and oil and gas production. However, the committee is cognizant of the tremendous volume of oil and gas related injection—approximately 2.3 billion gallons of brine and water per day, which is equivalent to the total daily waste water flow of the State of California—and the possible adverse effect of this activity upon ground water, absent effective regulation. Thus, the committee feels that regulatory activity in this area is appropriate, but must be carefully fashioned to accommodate production of sources of energy.

---

[5] The United States Water Resources Council was established by law to encourage the conservation, development and utilization of water and related land resources in a comprehensive and coordinated fashion by Federal, State and local governments and private entities and individuals. Its members are: the Secretaries of Agriculture, Army, Commerce, Energy, Housing and Urban Development, Interior and Transportation and the Administrator of the Environmental Protection Agency. Observors are: The Attorney General, Director of Office of Management and Budget, Chairman, Council on Environmental Quality, Tennessee Valley Authority, Basin Interagency Committees, and the Chairman and Vice Chairman, River Basin Commission.

The committee views the control of organic chemical contaminants of drinking water and the control of injections of chemicals and substances which may contaminate underground sources of drinking water as necessary elements in the Agency's overall charge to assure safe sources of drinking water to the people of this Nation. The committee also believes it essential that the Agency attempt to coordinate its programs to better focus on the cross-cutting aspects of contamination of drinking water. Organic chemical contamination of surface waters is caused by industrial spills and dumping and non-point source contamination such as agricultural runoff (the means by which pesticides enter surface water). Effective regulation of activities such as those that cause the carbon tetrachloride contamination of the Ohio River and chemical contamination at Love Canal and Valley of the Drums can avert significant and dangerous contamination of sources of drinking water. The full and vigorous implementation of its authorities under its hazardous waste program of the Resource Conservation and Recovery Act, the Clean Water Act, the Toxic Substances Control Act, and the Safe Drinking Water Act will have a direct bearing on the nature of surface water and ground water which are sources of drinking water. The committee believes that for the nation to have an effective contamination control approach, programs must be implemented with a significant degree of program integration and coordination. In this regard, the committee is pleased to note the Agency has begun a significant degree of program coordination by creating a consolidated permit program which encompasses activity under the Safe Drinking Water Act (in particular, the underground injection control regulations), the hazardous waste program under the Resource Conservation and Recovery Act, and the Clean Water Act. The committee will monitor closely the progress of the Agency in implementing this consolidated program.

The committee believes that reauthorization of the Safe Drinking Water Programs will enable the Environmental Protection Agency to address the concerns stated above and attempt to resolve the difficult issues the Agency faces in its mission to assure safe drinking water to the people of this nation.

Committee Consideration

Legislation to extend for 3 years the expiring programs of the Safe Drinking Water Act, H.R. 3040, was introduced on March 15, 1979. Hearings were held on March 26, 1979, on H.R. 3040 and on all similar and identical bills. A subsequent bill, H.R. 3509, was introduced on April 5, 1979, because of a clerical mistake in H.R. 3040.

H.R. 3509 is identical in all respects to H.R. 3040, except for the last word in section 3, "1980", which was supposed to read "1982", in conformance with the other provisions in the bill. H.R. 3509 corrected the error by changing the date to "1982".

The Subcommittee on Health and the Environment met in open session on May 1, 1979, and with a quorum present, by voice vote, ordered reported H.R. 3509 to the full committee without amendment. The full committee on Interstate and Foreign Commerce met in open session on May 9, 1979, and with a quorum present, by voice vote ordered reported H.R. 3509 to the House of Representatives.

Inflation Impact Statement

The committee believes the proposed legislation should have no significant inflationary impact on the nation's economy.

The bill as reported continues existing safe drinking water programs for fiscal years 1980 through 1982. The authorization for fiscal 1980 is considerably below the authorization provided by the committee for 1979. The increase in authorizations from 1980 to 1981 primarily is due to program growth to accommodate additional State participation; authorizations for fiscal year 1981 for purposes of section 1442 (EPA's abatement and control activities) and 1443(b)(5) (grants for protection of underground sources of drinking water) are increased to account for Agency activity related to creation and implementation of underground water source protection programs and a projected increase in the number of States applying for grants for those programs.

The committee feels that expenditures for drinking water programs are necessary to prevent water-borne diseases which manifest themselves in the short-term and other diseases which manifest themselves after a prolonged latency period. Certainly the costs related to an increase in human illness and death and associated health care and insurance costs and other related costs far outweigh the inflationary effect of programs under the Safe Drinking Water Act.

Program Oversight

The committee's principal oversight activities concerning the Safe Drinking Water Act have been conducted by the Subcommittee on Health and the Environment. The Subcommittee conducted oversight hearings on September 25 and 29, 1978 (Serial No. 95–158). Oversight and legislative hearings concerning the reauthorization of authorities under the act were held on March 26, 1979.

The Subcommittee on Oversight and Investigations of the full committee conducted hearings on the improper disposal of hazardous waste and its impact on the drinking water of several cities: October 20, 1978 (Toone, Tenn.); March 22, 1979 (City of Niagara Falls, N.Y.); and April 10, 1979 (Montague, Mich.). A report on these hearings will be issued by the Subcommittee in the near future. Additionally, the Subcommittee on Oversight and Investigations issued a report entitled "Carbon Tetrachloride Contamination of Public Drinking Water" (Serial No. 95–29), which deals with an industrial spill of carbon tetrachloride into the Ohio River, a source of drinking water.

The committee has not received an oversight report from the Committee on Government Operations.

Committee Proposal

Section-by-Section Analysis of H.R. 3509

Section 1. This section of the bill amends Section 1442 ("Research, Technical Assistance, Information, Training of Personnel") of the Safe Drinking Water Act by providing authorizations of appropriations for fiscal year 1980 through 1982 for programs administered pursuant to this section. This would permit the Administrator to continue

90-224 O - 82 - 10

his abatement and control activities which encompass administration of the Public Water System Supervision Program and the State Underground Injection Control Program; the development of Revised Primary Drinking Water Regulations; the development of regulations and program guidance for State programs; monitoring and analysis of water quality data; and the completion of the Surface Impounding Assessment. This section also directs the Administrator to provide technical assistance and information to States to assist them in administering their drinking water programs. Additionally it would enable the Administrator to pursue efforts to train personnel in sophisticated treatment techniques.

For these purposes $21,405,000 would be authorized for fiscal year 1980; $30 million would be authorized for fiscal year 1981; and $35 million would be authorized for fiscal year 1982.

Paragraph (b) of section 1 would extend the authorization of appropriations for three fiscal years for purposes of section 1442(a)(2)(B) which authorizes the Administrator to provide technical assistance and make grants to States or publicly owned water systems that are faced with an emergency situation that presents a substantial danger to public health. The bill authorizes $8 million for fiscal years 1980 through 1982 for this purpose.

SEC. 2. This section provides authorizations of appropriations for section 1443 of the Act ("Grants for State Programs"). Paragraph (a) amends section 1443(a)(7) by providing authorizations of appropriations for three fiscal years to enable the Administrator to continue to make grants to States to carry out public water system supervision programs. The Administrator is required to allot sums pursuant to this section to primacy States on the basis of population, geographical area and other relevant factors. To date 38 States have attained primacy and nine more are expected to do so by the end of fiscal year 1980. For purposes of this section $29,450,000 is authorized for fiscal year 1980; $32 million is authorized for fiscal year 1981; and $34 million is authorized for fiscal year 1982.

Paragraph (b) of section 2 amends section 1443(b)(5) by providing authorizations of appropriations for three fiscal years to enable the Administrator to make grants to States to carry out underground water source protection programs. Twenty two States have been designated by EPA as requiring underground injection control programs and one State, Maryland, has stated it will implement volitionally such a program. This section authorizes $7,795,000 for fiscal year 1980; $18 million for fiscal year 1981; and $21 million for fiscal year 1982.

SEC. 3 This section amends section 1441 ("Assurance of Availability of Adequate Supplies of Chemicals Necessary for Treatment of Water") of the Act by extending until 1982 the provisions under which treatment chemicals can be allocated in times of scarcity of supply.

COST OF LEGISLATION

As reported by the committee, H.R 3509 provides authorizations of appropriations for three fiscal years, 1980 through 1982, to carry

out the provisions of the Safe Drinking Water Act. The amounts authorized for each fiscal year are set forth below:

Fiscal year 1980	$66, 650, 000
Fiscal year 1981	$88, 000, 000
Fiscal year 1982	$98, 000, 000

This new obligational authority may be compared with a fiscal year 1978 authorization of $71 million and a fiscal year 1979 authorization of $81 million. Appropriations for 1978 totaled $40,657,000 and total $53 million for fiscal year 1979.

A Congressional Budget Office cost estimate follows.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 14, 1979.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, 2125 Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3509, a bill to extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ROBERT D. REISCHAUER,
(For ALICE M. RIVLIN, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 14, 1979.

1. Bill number: H.R. 3509.

2. Bill title: A bill to extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act.

3. Bill status: As ordered reported by the Committee on Interstate and Foreign Commerce, May 9, 1979.

4. Bill purpose: The bill authorizes the appropriation of $66.7 million for fiscal year 1980, $88.0 million for fiscal year 1981 and $98.0 million for fiscal year 1982 to the Environmental Protection Agency (EPA) for carrying out its responsibilities under the Safe Drinking Water Act. For fiscal year 1980, the bill authorizes $21.4 million for research, collection of relevant information and the training of personnel for primary enforcement responsibilities, $8.0 million for grants to states to assist in alleviating emergencies affecting public water systems, $29.45 million for grants to states for public water supervision programs and $7.8 million for grants to states for underground water source protection programs. The appropriation in fiscal year 1979 for these program activities is $53.0 million and the President's 1980 budget request is $58.65 million.

5. Cost estimate:

	Millions
Authorization level:	
Fiscal year:	
1980	$66.7
1981	88.0
1982	98.0
1983	
1984	
Estimated outlays:	
Fiscal year:	
1980	30.0
1981	66.0
1982	86.4
1983	50.5
1984	15.2

The costs of this bill fall within budget subfunction 304.

6. Basis of estimate: The authorization levels stated in the bill are assumed to be appropriated for each fiscal year. The outlays are estimated by applying a four-year aggregated spendout rate of 45 percent the first year, 39 percent the second year, 12 percent the third year and 4 percent the fourth year to the authorized levels specified in the bill.

7. Estimate comparison: None.

8. Previous CBO estimate: A cost estimate was prepared on May 14, 1979 for the corresponding Senate bill, as ordered reported by the Senate Committee on Environment and Public Works. The bill provided a marginally higher authorization of $67.6 million for fiscal year 1980, but lower authorization for fiscal years 1981 and 1982.

9. Esstimate prepared by: James V. Manaro (225–7760).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

AGENCY VIEWS

At the time of filing of this report, no agency views pertaining to this legislation have been received by the committee.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

* * * * * * *

TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

* * * * * * *

PART E—GENERAL PROVISIONS

ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

SEC. 1441. (a) * * *

(f) No certification of need or order issued under this section may remain in effect—

(1) for more than one year, or

(2) after September 30, [1979], *1982*, whichever occurs first.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 1442. (a)(1) * * *

* * * * * * *

(e) There are authorized to be appropriated to carry out the provisions of this section other than subsection (a)(2)(B) and provisions relating to research $15,000,000 for the fiscal year ending June 30. 1975; $25,000,000 for the fiscal year ending June 30, 1976; $35,000,000 for the fiscal year ending June 30, 1977 [; and]; $17,000,000 for each of the fiscal years 1978 and 1979*; $21,405,000 for the fiscal year ending September 30, 1980; $30,000,000 for the fiscal year ending September 30, 1981; and $35,000,000 for the fiscal year ending September 30, 1982*. There are authorized to be appropriated to carry out subsection (a)(2)(B) $8,000,000 for each of the fiscal years 1978 [and 1979] *through 1982*.

GRANTS FOR STATE PROGRAMS

SEC. 1443. (a)(1) * * *

* * * * * * *

(7) For the purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30. 1976, $25,000,000 for the fiscal year ending June 30, 1977, $35,000,000 for fiscal year 1978, [and] $45,000,000 for fiscal year 1979, *$29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982.*

(b)(1) * * *

* * * * * * *

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, $7,500,000 for the fiscal year ending June 30, 1977, [and] $10,000,000 for each of the fiscal years 1978 and 1979, *$7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982.*

* * * * * * *

MINORITY VIEWS ON H.R. 3509 SAFE DRINKING WATER ACT AUTHORIZATIONS

H.R. 3509 extends for 3 fiscal years the authorization for programs under the Safe Drinking Water Act. Because the bill is nothing more than a straight-out authorization bill without substantive amendments to the act itself, any amendments not tied to the authorization period could be ruled out of order as nongermane. However, the brevity and scope of the bill mask a number of controversial issues flowing from EPA's administration of the statute.

The contention was made in Committee that the best course of action was oversight coupled with a three-year authorization in light of the ongoing administrative process with respect to some of these matters. The problem with that approach is that it is for practical purposes an instruction to EPA to continue on its course absent effective Congressional input. This is so because the Senate as of now also has a 3-year authorization bill and the prospect of opening up the Act should problems arise in the interim is remote due to lack of leverage—as witness the situation with respect to the Clean Air Act. In light of the significance of the potential disruptive activities of certain aspects of the Act, it would be far preferable to have a one-year authorization to keep EPA on a shorter leash.

Briefly, at least three major problems have cropped up regarding this Act. That is, the proposed national interim primary drinking water regulations on organics, the underground injection regulations (particularly dealing with oil and gas), and certain obstacles in the administration of the program. As previously mentioned, the bill unfortunately does not address these vital matters. A short outline of these extremely complicated issues follows:

Organics.—In February 1978, EPA proposed regulations to limit organic chemicals in drinking water. The final regulations will probably be promulgated this summer. The regulation addressed trihalomethanes (which are formed during disinfection with chlorine of water containing naturally occurring materials) and other man-made compounds caused by urban, agricultural, and industrial pollution. Trihalomethanes would be subjected to a maximum contaminant level of 100 parts per billion. This standard would initially apply to systems serving populations of 75,000 or more. Systems serving 10,000 to 75,000 people would have to meet certain monitoring requirements, and those serving less than 10,000 people would be exempt initially. Coverage will be extended to all systems when feasible.

EPA proposed to restrict synthetic organic chemicals by requiring the installation of granular activated carbon (GAC) or some equivalent technology. This requirement would apply to systems serving greater than 75,000 people when monitoring indicates that a given water supply is vulnerable to this sort of contamination.

Not only is the scientific basis for the regulation questionable, but GAC for the proposed purpose with frequent on-site regeneration is not a demonstrably effective treatment technique. GAC would be extremely costly as reflected in larger rate increases for debt services for users of public drinking water systems; would exacerbate our unfavorable energy situation because it is quite energy intensive; and could cause health hazards of its own. Of course, the impact of GAC would be widespread since many of the affected municipalities are centers of food processing for nationwide distribution.

Underground Injection Control (UIC).—Regulations to control the underground injection of contaminants were first proposed in August of 1976. They were withdrawn after being subjected to numerous adverse comments. They were reproposed on April 20, 1979 with a 120-day comment period. Extensive comments on this subject were received in the 1977 hearings before the Subcommittee and some material was submitted for the record in this year's hearing.

The regulations would establish the technical criteria and standards to be used in implementing the underground injection control program. The regulations propose certain minimum requirements to contain injected and formation fluids. Wells divided into five classes for purposes of regulation, to wit: (1) Waste disposal below lowest underground source of drinking water by industrial, municipal, and nuclear concerns; (2) oil and gas disposal, recovery and storage; (3) special processes such as Frasch sulfur, solution mining, and gasification; (4) hazardous waste into or above lowest underground source of drinking water; and (5) all others such as drainage and recharge.

In the future, EPA proposes to consolidate its regulations for its permit programs under the hazardous waste management program under the Resource Conservation and Recovery Act, the UIC program under the Safe Drinking Water Act, and the National Pollutant Discharge Elimination System under the Clean Water Act.

EPA estimates that the proposed program costs for 5 years would be about (807.9 million of which about $665.2 (or more than 80 percent) would fall on class II wells (oil and gas).

Because most of the cost of the regulations would be borne by the oil and gas industry, the bulk of the attention has focused there. The EPA cost estimate is too low because loss of reserves due to operating costs was not included in the economic study. Aside from aspects of the regulations, a more fundamental objection goes to the threshold question as to whether or not regulations are needed at all. Studies which were prepared by the Interstate Oil Compact Commission in response to a statement by a member of the National Drinking Water Advisory Council reported that petroleum injection operations were not harming underground sources of drinking water in the producing States of Texas, Arkansas, Louisiana, and New Mexico. If States have sound injection control programs relating to oil and gas production, then the existing programs should not be hampered by Federal interference. To the extent that the regulations are unnecessary, they will be a constraint on energy production, divert funds from energy development, and represent an inflationary factor in energy costs.

Administrative Obstacles.—In his statement before our Subcommittee on March 26, Tom Jorling, Assistant Administrator for Water and Waste Management of EPA, mentioned that there were some matters of timing and procedure that warrant attention at this time. This is so, he said, because "unintended obstacles in the administration of the program, particularly to the States, are being caused." At the end of his formal statement, he gave a brief summary of what he styled as "needed" amendments. These amendments would: (1) Provide more time for States to amend their regulations to correspond with amended Federal regulations, thereby ensuring continuity of grants support and primary enforcement responsibility; (2) extend exemption compliance deadlines for interim primary regulations to the time frame already established in the act relative to the revised regulations, thus providing some systems, particularly the smaller ones, with sufficient time to solve their financial problems and improve their treatment facilities; and (3) adjust the statutory deadline for prohibiting all unregulated injection practices in view of the delay in promulgating final regulations and link the eligibility of States to receive underground injection control grants to the promulgations of final regulations, thus ensuring that they have grant support while seeking to achieve primary enforcement responsibility. Regrettably, these obstacles have not been removed.

JAMES T. BROYHILL.
JAMES M. COLLINS.
EDWARD R. MADIGAN.
DAVE STOCKMAN.
TOM LOEFFLER.
GARY A. LEE.
WILLIAM E. DANNEMEYER.

[From the Congressional Record, July 30, 1979]

House Debate on H.R. 3509

Mr. Waxman. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3509) to extend for 3 fiscal years the authorizations for appropriations under the Safe Drinking Water Act.

The Clerk read as follows: **[H.R. 3509, see text, pages 129–130]**

The Speaker. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. Waxman) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. Carter) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. Waxman).

Mr. Waxman. Mr. Speaker, H.R. 3509 is a simple authorization bill that would extend the authorities of the Safe Drinking Water Act for 3 fiscal years, 1980 through 1982.

Our work of providing safe drinking water to all Americans is just beginning. Federal interim primary drinking water regulations became effective in June of 1977. To date, some 41 States and territories have assumed primary enforcement responsibility over their public water systems. This means that these States are enforcing Federal regulations pertaining to coliform bacteria, several inorganic contaminants and a few organic contaminants. Several other States are expected to attain primacy this year.

Our sources of drinking water are contaminated by a number of point sources such as industrial effluent discharge, leachate from waste dumps, and nonpoint sources of contamination which come from pesticide residues from agricultural runoff and heavy metal residues from urban runoff. The Environmental Protection Agency is in the process of developing an integrated program to attack these environmental insults which threaten drinking water.

The funding levels in this bill assure the continuation of the Environmental Protection Agency's drinking water programs that are just getting off the ground. **Section 1** of the bill provides funding to continue the Agency's pollution abatement and control activities which encompass the determination of human exposure to water borne contaminants and attendant health risks; the establishment and implementation of national primary drinking water regulations; the development of revised primary drinking water regulations; the provision of technical assistance and guidance to the States and the training of personnel; and the development of an effective and balanced underground injection control program. **[Sec. 1442(e) SDWA]**

During the past 2 years the Agency has been working on several studies mandated by Congress in the 1977 amendments to the Safe Drinking Water Act. These studies focus on: health effects of the reaction of chlorine and humic acids which forms trihalomethanes, several of which are carcinogenic; polychlorinated biphenyl contamination of actual or potential sources of drinking water; and the anticipated costs of compliance with interim and revised national primary drinking water regulations and methods by which States and units of local governments can implement those regulations. **[Sec.**

1442(a) SDWA] All of these studies will be completed shortly and will assist the Environmental Protection Agency in the performance of its mission, and will help Congress determine how States are progressing in meeting drinking water regulations.

For purposes of **section 1** $21,405,000 would be authorized for fiscal year 1980, $30 million for fiscal 1981, and $55 million for fiscal 1982. **[Sec. 1442(e) SDWA]**

Section 2 of the bill would provide authorizations for public water system supervision grants. **[Sec. 1443(a) SDWA]** This program enables the Agency to provide start-up and continuation grants for States that assume primacy over their public water systems. The program is necessary to assist States in attaining and maintaining the essential components of a drinking water program. The authorization would provide $29,450,000 for fiscal 1980, $32 million for fiscal 1981, and $34 million for fiscal 1982.

Additionally, this section would provide authorizations for grants to States to assist them in formulating underground water source protection programs. **[Sec. 1443(b) SDWA]** Recently, the Agency designated 22 States as requiring underground injection control programs to protect ground water. By the end of 1980, all States will be so designated. The bill would authorize $7,795,000 for fiscal 1980, $18 million for fiscal 1981, and $21 million for fiscal 1982.

Finally, the bill also would authorize funds to be utilized by the Administrator to help remedy an emergency situation faced by a municipality or public water system that is beyond its financial or technical capability to remedy without such assistance. Eight million dollars would be authorized for fiscal years 1980 through 1982 for this purpose. **[Sec. 1(b); Sec. 1442(e) SDWA]**

Mr. Speaker, we must demonstrate to the States our commitment to assure for our citizens the provision of safe drinking water. The mechanism Congress envisioned in 1974 when the Safe Drinking Water Act was enacted is in place and is working. However, more work needs to be done to improve the program. The States need guidance and assistance in establishing and running their programs and more work is needed in identifying and in assessing the health effects of hundreds of contaminants that find their way into our sources of drinking water. Also, the Center for Disease Control reports that there are still more than 3,000 waterborne illnesses per year in this country. The Subcommittee on Health and the Environment is going to hold hearings in the near future on a number of difficult issues that face the Environmental Protection Agency and the States in their joint effort to assure the provision of safe drinking water. Of primary interest will be the problems faced by small systems in attempting to meet drinking water standards.

Mr. Speaker, this bill would enable the EPA and the States to continue to provide safe drinking water for the people of this country. I respectfully urge my colleagues to support H.R. 3509.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, let me ask the gentleman, how many deaths did the Center state were due to drinking water? I believe the gentleman mentioned that in his presentation.

Mr. WAXMAN. Mr. Speaker, the Center for Disease Control reported there are still more than 3,000 waterborne illnesses per year in this country.

Mr. VOLKMER. That is 3,000 waterborne illnesses?

Mr. WAXMAN. The gentleman is correct.

Mr. VOLKMER. But we do not know how many deaths have occurred as a result of drinking water?

Mr. WAXMAN. I do not know that.

Mr. VOLKMER. Is there any way that we could find out?

Mr. WAXMAN. Perhaps we could inquire of the Environmental Protection Agency. They might have the statistics.

Mr. VOLKMER. All right. Can the gentleman tell me, is there anyone who knows approximately what it is going to cost ultimately to implement the new regulations that are being proposed?

Mr. WAXMAN. Mr. Speaker, we do not know the cost of the proproposed new regulations, but the subcommittee is watching those new regulations with a great deal of interest. There are members of our subcommittee who are concerned about two drinking water regulations; one member in particular introduced legislation that would prohibit those regulations from taking effect.

Before those regulations take effect, we will hold oversight hearings on them.

Mr. VOLKMER. I would appreciate that.

Mr. WAXMAN. One of the key questions that will be in our minds will be the cost of those regulations as well as the benefits we will receive from the regulations.

Mr. VOLKMER. Mr. Speaker, that is exactly my concern. There have been some figures used in my State which show theoretically if the charcoal-type system was used, it would cost upward of $1 billion for those cities. That applies to cities over 75,000, and it would cost this amount to implement that. Then we might get little benefit because of the fact, as far as we know, in the last 4 or 5 years there have been no deaths attributed to drinking water in the State, and yet we are going to spend this kind of money.

So although I do not disagree that there is a need for identifying pollutants within the drinking water, I do seriously question whether or not the benefits are going to be worthwhile as far as the cost is concerned.

Mr. Speaker, I appreciate the subcommittee's looking into that matter.

Mr. WAXMAN. Mr. Speaker, I appreciate what the gentleman is referring to, and that is the cost of those particular regulations that would apply to local governments.

Mr. VOLKMER. Yes. And as far as what is going to be done and as to the benefits received, if we do not have related illnesses and related diseases, then I question the necessity of also bringing on this new type of filtration.

Mr. WAXMAN. Mr. Speaker, I share the gentleman's concern, and our subcommittee is going to look very carefully at these regulations before they go into effect.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman.

Mr. CARTER. Mr. Speaker, prevention and health are two words which have become strongly linked in the past decade. Clearly, pre-

vention of illness is a more effective means of promoting continued good health than remedial treatment following the onset of disease. As a physician, I have supported legislation which is preventive in nature. The Safe Drinking Water Act is one such important measure, designed to safeguard the health of Americans by preventing their exposure to unsafe drinking water. Under this law, the Environmental Protection Agency and States are encouraged to work together in insuring a safe supply of drinking water.

This bill, H.R. 3509, provides for a simple extension of the authorities of the Safe Drinking Water Act for 3 years. I support H.R. 3509 because of its preventive nature, and I urge that it be approved expeditiously.

Mr. Chairman, our supply of drinking water is something many of us take for granted. We simply turn a tap and draw a glass. But the safety of this water is not something we should take for granted. Not when more than 700 organic chemical contaminants have been identified in some sources of drinking water. Moreover, we hear frequent reports of incidents in which toxic chemicals have been discovered in drinking water supplies. Just recently in California, high levels of a toxic pesticide were found in drinking water and irrigation wells. The pesticide had been banned from use in that State for the past 2 years. Clearly, findings like this indicate the need for continued monitoring of our drinking water supplies.

The Safe Drinking Water Act grew out of concern over the safety of our drinking water supply. That was in 1974, when the number of identified organic contaminants was 66. Today the number stands at over 700, and it continues to grow. Clearly, we must reinforce our original commitment to assuring a safe quality of drinking water. Therefore, I urge prompt approval of this bill to safeguard the health of the American public by protecting its drinking water supply.

Mr. Speaker, I would also say that I included in this bill $8 million for taking care of places such as the Valley of the Drums in Louisville, Ky., where people have placed contaminants from their factories, and the identity of these people cannot be immediately found. **[Sec. 1(b); Sec. 1442(e) SDWA]** We have another such situation existing near Buffalo, N.Y., where many people have become ill from toxic substances which have been buried beneath their homes, prior to the building of their homes, of course, and as a result of this there were many miscarriages and many of the youngsters born in that neighborhood had many deformities.

I included this $8 million in this legislation to help in alleviating these conditions, but, actually, Mr. Speaker, this is only a small amount. It will take a great deal more money to clear up this situation throughout our country.

A great many pure water supplies have been contaminated by numerous "Valleys of the Drums" throughout our country. The $8 million authorized will not nearly be enough—but it will be a start—I urge a vote for pure drinking water.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. McClory).

Mr. MCCLORY. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the cooperation to date of my colleague from California, Mr. Henry Waxman, and my colleague from Ken-

tucky, Dr. Tim Lee Carter, in consideration of problems of my constituents related to the presence of barium found naturally in public drinking water supplies.

The Safe Drinking Water Act provided that standards should be established by the Environmental Protection Agency following scientific studies by the National Academy of Sciences or another independent scientific organization. However, it was also provided in this statute that the EPA could establish a standard for a questioned substance which "in the judgment of the Administrator, may have any adverse effect on the health of persons." **[Sec. 1412(b) SDWA]**

Mr. Speaker, the scientific studies which seem to be required under the provisions of the statute appear not to have been met or at least have been insufficiently met—in my view. According to a report issued by the National Academy of Sciences in 1977 entitled "Drinking Water and Health" the subject of barium in drinking water was very equivocal and indefinite insofar as posing any specific hazard to human health.

It is my understanding that the standard adopted by the Federal EPA of 1.0 mg/1 of barium is derived from a 1962 standard established by the Public Health Service. That standard was established not on the basis of studies made with drinking water but were based upon studies related to the presence of barium in the air and these studies were thereafter translated into a standard applicable to drinking water.

Mr. Speaker, it would seem to me that to establish and impose a standard with which the communities of Cary, Algonquin, Burlington, Crystal Lake, Hampshire, St. Charles, Wauconda, and West Dundee in my congressional district are required to comply, some more valid scientific studies should be conducted and empirical data should be secured upon which a standard might thereafter be developed. With such a valid standard, I am confident the officials of the communities in my district would thereafter be willing and anxious to comply.

Mr. Speaker, I therefore request that oversight hearings be held at the earliest possible date in order that we may work together with the U.S. EPA to make sure that drinking water standards are reasonably accurate and necessary. I agree that the ideal is to be ultrasafe if this is economically feasible. But for small communities up to 15,000, the high cost of treatment is illogical if there is doubt that this is really necessary in order to preserve and maintain good health. At present there appears to be fairly widespread doubt among knowledge scientists that the low level of 1 milligram per liter of barium presently required by the U.S. EPA is really necessary. Some feel that 4.5 or 5 miligrams per liter of barium would be within safe limits. My constiutents are disturbed at being forced to comply with regulations based on information which is not generally accepted. Since at present there are no Federal or State grants available to them, this compliance would be at burdensome costs.

You may be aware that there is a barium treatment which is reasonable in cost, water softening by use of sodium. This process would be financially feasible for a small community, it is true. However, the major health problem suspected to be related to barium ingestion is a possible cardiovascular effect evidenced by hypertension. There is

mere speculation of such an effect. As many of you may also be aware, it is an accepted fact that the so-called remedy, salt addition to the water, increases hypertension. Thus, the low-cost reasonable remedy presently known, zeolite or salt addition, appears to be worse than the original, barium. Thus, my constituents are rightly resisting the solution of water softening by means of zeolite of salt addition. Other solutions for removal of barium involve digging another well, building a treatment plant utilizing lime softening and hiring a full-time operator, or adopting some other potentially expensive remedies.

Mr. Speaker, I appreciate this time to briefly explain some of the real problems faced by small communities in meeting safe drinking water act regulations and hereby request oversight hearings during or following the recess. I believe we should be reasonably sure requirements are necessary and we should also make it financially feasible for small communities to comply if it is necessary.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. MCCLORY. Mr. Speaker, I am pleased to yield to the chairman of the subcommittee.

Mr. WAXMAN. Mr. Speaker, I have enjoyed working with the gentleman from Illinois and have been most impressed with his knowledge of the difficult question of the health effects of the ingestion of barium in drinking water. I am very sympathetic to the plight of small communities such as Cary, Ill., which, in order to comply with the existing State and Federal standard, must make substantive financial investments. I agree with the gentleman that additional research is needed to determine the health effects of long-term ingestion of low levels of barium.

If the gentleman will yield further, I would like to assure the gentleman from Illinois that oversight hearings of our subcommittee will be conducted as soon as possible—with the likelihood that at least one of the hearings will be held in an area convenient to the gentleman's congressional district in Illinois. Meanwhile, it is my hope that other scientific research studies will be conducted and that empirical data will be gathered which will either confirm the adequacy of the existing standard or demonstrate that a new standard should be set which assure safe drinking water for water supply systems such as that in Cary, Ill., and other communities in the gentleman's Illinois district—as well as elsewhere in the Nation. I am very aware of the plight of the small communities in particular, which are now confronted with the requirements of the Safe Drinking Water Act and the need for meeting a standard of water quality by 1981. Some further consideration may be needed to determine whether to delay that date, where the risk to human health posed by the contaminant is minimal, the expected cost of a water treatment facility is beyond the capability of the communities, and the community has demonstrated that it has acted in good faith to comply with the standard, but was unable to do so.

Mr. MCCLORY. Mr. Speaker, I appreciate the chairman's assurances, and I wish to indicate my support of this legislation.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. Abdnor).

Mr. ABDNOR. Mr. Speaker, I thank the gentleman from California and I thank the distinguished chairman for his time and his staff's

time in reviewing this legislation. It is my understanding the Subcommittee on Health and the Environment will hold oversight hearings later this year on the Safe Drinking Water Act.

Mr. WAXMAN. Yes; the subcommittee is in the process of examining issues relating to the implementation of the act in preparation for oversight activities.

Mr. ABDNOR. Is it the subcommittee's intent to give particular attention to the difficulties experienced by smaller systems in complying with the act?

Mr. WAXMAN. Yes; a primary issue for the subcommittee will be problems faced by small systems in attempting to meet drinking water standards.

Mr. ABDNOR. I understand EPA is conducting analysis of the financial implications of the standards of each level of government—Federal, State, and local.

Mr. WAXMAN. That is correct. We are awaiting receipt of a nearly completed study mandated by the Safe Drinking Water Act Amendments of 1977 which will assess the anticipated costs of compliance with interim and revised national drinking water regulations and the anticipated costs to States and units of local government in implementing such regulations. This report, in conjunction with oversight hearings, should be a valuable tool in helping us assess the problems confronting small systems and in determining appropriate mechanisms to assist small systems in meeting drinking water standards.

Mr. ABDNOR. I thank the chairman and look forward to the subcommittee's full consideration of a number of issues including: First, financing of water system improvements in those instances where such improvements would be cost prohibitive to the users; second, attention to the needs of the millions of Americans who obtain their water from sources which are not covered by the act; and third, insuring that the standards are reasonable from the standpoint of costs and benefits.

The importance of an adequate supply of good quality water for our citizenry is paramount. The Safe Drinking Water Act is a landmark in that respect; but it seems to me that, at least in terms of experience in my State, the existing program leaves much to be desired.

I am, therefore, encouraged to have the chairman point out that in passing H.R. 3509 today, to extend the Safe Drinking Water Act, it is not our intent to close the book on this important issue.

Mr. WAXMAN. I will be more than happy to work with my colleague from South Dakota to examine the specific issues he has raised. I feel it is important to hear the views of those in South Dakota who are confronted with problems in attaining drinking water standards. Of course, I would welcome your testimony about the drinking water situation in South Dakota. I look forward to working together on this issue.

Mr. ABDNOR. Again, I thank the chairman; and I request permission to revise and extend my remarks for the purpose of explaining a measure I have introduced today to amend the Safe Drinking Water Act and the Rural Development Act. Hopefully, this legislation would address the inadequacies in the program and facilitate the delivery of good quality drinking water to all Americans.

When the Safe Drinking Water Act was before the House in 1974, I was prepared to offer an amendment to protect the interests of my constituents and to promote a cooperative regulatory atmosphere.

That amendment stated:

A public water system which has made application under a program of Federal financial assistance to complete improvements which would bring the system into compliance with this Act shall not be required to comply with the provisions of this Act under the completion of such improvements or until the Administrator shows that the system can comply without such assistance and without unreasonable cost to the users.

I was dissuaded from offering the amendment by members of the committee who assured me that the exemptions and variances allowed under the act were sufficient to address my concerns. It has become clear, however, that is just not the case; and Assistant EPA Administrator Jorling has acknowledged as much.

As pointed out in the minority views contained in the committee report (H. Rept. 96–186, p. 14), Mr. Jorling has characterized as "needed" an amendment to extend exemption compliance deadlines, thus providing some systems, particularly the smaller ones, with sufficient time to solve their financial problems and improve their treatment facilities.

Still, my original amendment is superior to that suggested by the Assistant Administrator because it would allow case-by-case extensions when justified, rather than a broad and arbitrary extension based on time instead of need.

According to South Dakota's water hygiene administrator, Mark Steichen, by early June about two-thirds of the 400 community water systems in our State had been tested for compliance with maximum contaminant levels (MCL's) for inorganic chemicals. Of those tested to that point, 40, or about 15 percent, had drinking water which exceeded the standards. Others had received notice from EPA of violation of regulations pertaining to bacteriological analyses, and more violations are expected as sampling for radiological contamination proceeds.

Perhaps my colleagues noted the recent article headlined "Town in Alaska Shuts Sewage Plant, Dares U.S. To Do Something About It," which appeared on page A3 of the July 25 edition of the Washington Post. Sadly, the incident it relates is all too typical of the conflict which has been fostered by the regulatory philosophy which prevails at EPA and in the statutory authorities the Congress has provided.

The Skagway, Alaska, mayor and town council do not believe the benefits of the $3.5 million wastewater treatment plant they have been forced to construct to serve their community of 870 people justify the diesel fuel it will consume or the expense of operating the facility. For having the courage of their convictions, the council members face a possible $10,000-a-day fine; and EPA is pressing the matter in Federal court.

Under the existing provisions, I fear it is only a matter of time before similar confrontations develop with respect to the Safe Drinking Water Act; and that is one reason I introduced legislation in the 95th Congress to amend the act. I have reintroduced that measure today.

The Institute for Rural Sanitation Services commented on my bill in the December 8, 1978 issue of their newsletter, FYI:

ENVIRONMENTAL PROTECTION AGENCY—FARMERS HOME ADMINISTRATION COORDINATION ON RURAL WATER PROJECTS; IS THERE HOPE?

It has long been evident to those in poor, rural communities that money for small water and sewer projects is pretty hard to come by. The U.S. Environmental Protection Agency (EPA), under the Federal Water Pollution Control Act, has been providing grants for the establishment of wastewater treatment works only since 1972 and has had full responsibility for drinking water quality since 1974. The Farmers Home Administration (FmHA), under the Consolidated Farmers Home Administration Act and the Rural Development Act, has been providing grants and loans for community water and wastewater facilities since 1961. The two agencies really never have been in a position to consolidate their efforts to serve the rural poor—until now.

EPA and FmHA believe that their present community water facilities programs are adequate in terms of their mandated objectives. But they realize the need for improvement in the management of their programs. At the insistence of many congressmen, rural-interest organizations, and small communities, FmHA and EPA released a joint policy statement in July of this year amending the FmHA priority system for grants. First priority goes to improvements or additions to water treatment systems needed to meet the requirements of the Safe Drinking Water Act. Second, the quality of drinking water for projects financed in whole or in part by FmHA must meet the applicable primary drinking water standards after completion of any proposed improvements.

This policy statement is a much-needd recognition of past problems caused by the lack of coordination between EPA and FmHA. It is a welcome first step toward reducing these problems. However, a great deal of work remains to be done if EPA and FmHA programs are to deal efficiently with the water-sewer needs of rural America.

THE PROBLEM OF SAFE DRINKING WATER

Under the Safe Drinking Water Act (SDWA) of 1974, EPA was given the mandate of guaranteeing the safety of drinking water supplies throughout the United States. A substantial amount of data had been collected by this time showing that people in rural areas of the country suffered from inferior water quality to a much greater extent than those in urban areas due to their use of self-supply water systems such as individual wells and cisterns. Many of these systems, as well as a number of small community water systems, are known to supply poor quality water.

EPAs first objective under the SDWA was to define the water quality problem. As a part of this effort to define the problem, the agency provided substantial financial and technical assistance to states and local communities so that they could undertake various research and study programs. However, the Act authorized no funds to improve the water quality situation. There was no money for the construction of new water treatment systems, nor were funds available for upgrading existing treatment systems in order to meet the National Interim Primary Drinking Water Regulations.

Thus, in 1977, new drinking water regulations were imposed on existing water systems having 15 or more connections and regularly serving 25 or more individuals. While this size limit left millions of people unprotected by the regulations, the small community water systems that were covered suddenly were faced with rigid testing and quality requirements demanding a lot of time, attention, and financial resources.

The requirements of the EPA drinking water regulations have been a significant burden to a number of these water systems. Many of the strict requirements have been questioned by both water suppliers and scientists. The Council on Wage and Price Stability has declared that EPA's new rules are not worth the money and are void of any cost/benefit analysis. In addition, there seems to be no solid, scientific basis for many of them. EPA admits that there is no hard evidence linking the low level of trihalomethanes and synthetic organic chemicals found in drinking water with a low occurrence of cancer. Yet the agency asks local communities to spend millions of dollars (maybe even a billion) to curb the level of

these chemical contaminants. Of course, smaller communities are affected the most by this; they simply do not have the resources that larger communities have to upgrade and monitor their water supplies.

The Farmers Home Administration is usually the only source of funds for improving rural water systems, and it is therefore the only agency the communities can turn to in trying to comply with safe drinking water regulations. This applies both to existing systems which simply need upgrading and to those which have yet to be built. If a small community water system cannot sustain EPA's low limits for bacteria, turbidity, certain inorganic chemicals, pesticides, and radiological contaminants, then FmHA may reject an application for funding it. One does not want to deny the users of that system the safety regulations promulgated by EPA. On the other hand, the fact that the system is in noncompliance means that perhaps money is needed more for it than for other water systems, regardless of their size. In addition, FmHA has limited amounts of grant funds available and must attempt to use them to meet the needs of all rural communities—those with quality problems in existing systems and those with no system at all.

STEPS TOWARD A SOLUTION

The problems associated with implementation of the Safe Drinking Water Act are due partly to poor coordination between FmHA and EPA. This is the premise underlying the July joint policy statement. Many states moved prior to the statement to establish a coordinating mechanism that would assist rural communities in dealing with the new water quality standards. Vermont, for example, can boast an outstanding cooperative effort between FmHA and EPA in providing water facilities. EPA regularly sends lists of communities which are not in compliance with their safe drinking water regulations to FmHA, which can contact the communities directly. Once communities are aware of the funds available, they are more likely to heed EPA's warning of noncompliance.

Congressional concern has been expressed. Congressman Jim Abdnor of South Dakota, in introducing amendments to the SDWA and the Rural Development Act (RDA), noted that:

"If the Federal Government is going to mandate such standards upon a particular system, it is also incumbent upon the Federal Government to provide financing on a basis the users can afford to pay."

We couldn't agree more. FmHA enters the picture here as the principal funding source for communities with populations of 5,500 and under. It has a special responsibility to assist these localities in providing appropriate water facilities that comply with EPA's standards.

Similarly, the Congressional Rural Caucus (CRC) requested the Administration in September to "develop federal, state, and local intergovernmental mechanisms to improve coordination and reduce the difficulties, delays and red tape small cities and towns must undergo to obtain development assistance." Moreover, CRC recommended that the administration address the need to "develop within USDA a program to help FmHA, EDA, CSA, HUD, Labor *and other programs* used in rural communities to improve the accessibility to and delivery of their services" (emphasis added).

Congressman Abdnor expressed his recommendations in the form of legislation which he introduced this past summer. Although no action was taken on his and similar bills, they probably will be reintroduced in January. H.R. 13752 was a bill amending the Safe Drinking Water and the Rural Development Act "to provide additional assistance to small communities and rural water systems in meeting drinking water standards." In addition to increasing grant authority for water systems to 90 percent (from the present 50 percent) and authorizing grants for those systems which have experienced "higher than anticipated expenses," the bill would have required certain EPA–FmHA cooperation. First, it sought to prohibit the Administrator of EPA "from acting against a public water system which is not in compliance with SDWA if it has a pending application with FmHA to finance the necessary improvements." Second, associations proposing to construct water systems would be permitted to ask EPA to test the supplies of proposed users for compliance with SDWA standards. If present supplies do not meet the SDWA standards, then the proposed system would qualify for grant assistance from FmHA on the same basis as existing systems.

It is heartening to see the perception and awareness that Congressman Abdnor manifests towards the rural water problem. He addresses the most common problems effectively, and even tackles some that are not so common. He advocates rearrangement of FmHA's grant priorities so that communities faced with unanticipated deterioration of water supplies can receive immediate action. Those

communities which request money for the sole purpose of compliance with SDWA primary drinking water standards would become second on the list. H.R. 13752 would prohibit EPA from requiring a water system to notify its users of noncompliance with SDWA standards if the community has applied for assistance in order to comply. The fact that states are supposed to assume the responsibility for notifying systems and their users in the event on noncompliance has been a major point of contention with EPA since the SDWA became law. Because of their inability to control the funding source, states often do not want to exercise their right to primacy, and certain states have denied it completely (South Dakota, Wyoming and Utah are examples). The state's view is that they should not have to bear the burden of explaining noncompliance to owners of water systems and their users when they have no power to extend the resources necessary for compliance. Congressman Abdnor saw it, too, when he stated: "EPA writes the rules and the water users pay the expenses," H.R. 13752 attempted to go far beyond the concept of EPA–FmHA coordination. It proposed specific solutions to a number of problems implicit in the provision of rural water supplies and, the solutions were based on the use of present program mechanisms.

The thrust of both the Abdnor legislative proposals and the EPA–FmHA policy statement is essentially the same: making the best of a bad situation through coordination and other programmatic changes. This may be the best that can be done and, given the fact that the present situation can only be improved, better coordination and program management would be no small accomplishment. However, the root of the problem may well be something quite different. On the one hand, the Congress has decided that the nations' drinking water quality must be improved substantially. On the other, the Carter administration has decided that there will be no costly new programs and no significant increases in those which already exist. This was the administration's position two years ago and it continues to be stated in light of continuing inflation. There simply may be no way even with all the coordination in the world, that both objectives—improved quality and economy—can be achieved. In the end, something is going to have to give—either the Carter administration will have to agree to a new, or greatly expanded, program to help small communities meet the drinking water standards or it will have to agree to soften the standards or delay their implementation. Coordination can only do so much.

The obvious implication of FYI's conclusion is that more money will be required if the goal of safe drinking water is to be met, and that may be so. While my bill does not provide for an increase in total Federal funding for water system improvements at this time, it would establish a more rational regulatory process within which the need for such an increase could be assessed and would become apparent.

Writing in the May/June 1979 edition of Outdoor America, Deputy EPA Administrator Barbara Blum made several pertinent remarks in an article entitled "EPA, Economics and the Environment." Among the points Ms. Blum endeavored to convey were the following:

The Environmental Protection Agency considers itself part of President Carter's administration and part of his anti-inflation team. EPA administers laws covering drinking water and their economic impact has not been lost on an economy racked by unremitting inflation. EPA is committed to administering the law as inexpensively and efficiently as possible.

Resources—including clean water tend to become less plentiful as society becomes more densely populated, more urbanized. It is wrong, therefore, to think of our current problems as either primarily environmental or primarily economic. History teaches us that they are both at once.

We cannot afford an unhealthly environment, nor can we afford an economy plagued by inflation or racked by unemployment. We must debunk the myth that free enterprise and environmental regulation are natural enemies.

EPA fights and will continue to fight inflation four basic ways: through improvement of the regulatory process itself; through increased cooperation with industry and state, local, and foreign governments; through improvements in the enforcement process; and through the introduction of flexible marketplace incentives.

EPA is working to have state governments assume administrative responsibilities at the local and state levels so that those closest to a problem will make the required regulatory decisions, presumably in the most cost-effective manner possible.

EPA helped pioneer the new Regulatory Council. The council aims to increase cooperation within the bureaucracy and reduce rulemaking.

Cooperation within the bureaucracy and reduced rulemaking are admirable goals, but the cooperation of those who are regulated is even more important. The best way to get such cooperation is to have rules which are reasonable and well justified, and I believe there is room for a great deal of improvement in this regard.

Indeed, on page 42247 of the July 19 Federal Register, EPA itself admits:

While the Safe Drinking Water Act calls for issuance of revised regulations shortly after completion of the National Academy of Science's study, it was the Congress' expectation that the National Academy of Science's report would provide sufficient bases for such revised regulations. However, the Academy was unable to make specific recommendations as to safe levels of contaminants in drinking water to be used as a basis for maximum contaminant levels. Rather, NAS provided background information, recommendations for further research, and recommendations regarding acceptable daily intakes for certain compounds.

Conversion of these recommendations and information into drinking water regulations is therefore a more lengthy and complex process than originally anticipated, and issuance of revised regulations in the prescribed time-frame became unrealistic.

Furthermore, EPA acknowledges:

The States have encountered several problems with respect to the microbiological MCLs and the monitoring requirements for small public water systems. Greater latitude has also been urged with respect to requirements applicable to non-community systems and with the requirement of public notification through the media for all MCL violations applicable to community water systems.

Finally, EPA states:

All existing MCLs will be re-evaluated in light of recently acquired data, particularly that contained in the National Academy of Sciences' report "Drinking Water and Health," and other information including a comprehensive follow-up study by the National Academy of Sciences now underway. Resulting changes will be reflected in Revised National Primary Drinking Water Regulations to be proposed subsequently."

In concluding her remarks in Outdoor America, Deputy EPA Administrator Blum said:

As we move into the 1980's, it is imperative our economic investments are environmentally sound and our environmental investments economical. Success depends upon our keeping that equation balanced.

That is exactly what my bill is designed to do with respect to drinking water in rural areas and small towns. I have a sense that reason must prevail—eventually; but, in the meantime, that is little relief to those who are faced with the impossibility or excessively costly prospect of having to comply with the existing law and regulations. Nor is it of much comfort to those who are ignored by the act

I urge my colleagues and particularly the members of the Subcommittee on Health and the Environment to give this matter further, serious consideration. For those who might be interested, my previous remarks on this issue may be found on pages H8030, H10129, and E5651 of the August 7, September 19, and October 14, 1978, Congres-

sional Record, respectively. The text of the bill is on pages H8032 and H8033 of the August 7, 1978, Record.

The goal of safe drinking water for all Americans is unquestioned. The question is how best to maximize achievement of that goal. I believe the first step which must be taken is to reduce the attitude of confrontation which exists between the regulators and the regulated. My bill would do so and, hopefully, would encourage both to work together toward responsible and cost-effective solutions to our Nation's drinking water problems.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. Collins).

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman from Kentucky (Mr. Carter), who is our ranking member and is so keenly concerned with the health of America.

I am keenly concerned, too, but I believe this bill is a step backward instead of a step forward.

You know, we have so many health regulations in this country, we just cannot hardly afford to live anymore.

I remember in our own district down there, this is where the Indians got started, down in Texas. We have 300 old camps in our area where Indians lived.

We have the Lewisville Man, that is supposed to be the oldest man. The Indians had a very healthy society. Nobody was any stronger physically or had a greater physique than Indians.

I want to tell my colleagues, if you remember back, you heard of very few Indians who lived past 40 years of age. They had fresh air, fresh water, fresh grass, but they just did not have the American way of life.

We are just about to price this American way of life out of business. We have got so many gimmicks. In fact, when my friend talked about water, the first thing that came to my mind was the drinking water here in Washington.

I cannot stand this tap water myself. I have to carry a gallon jug. I go down to buy completely natural water in the grocery store to drink. This is plain water just as it comes out of the spring. But Washington has been meeting all these requirements; they have to add chemicals for EPA standard water.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I will yield to the gentleman from Kentucky.

Mr. CARTER. What would it cost the public if they, like the gentleman from Texas, went to the grocery store and bought their water? Would it not cost millions and millions more? This bill will save millions.

Mr. COLLINS of Texas. I want to tell the gentleman this. The reason I do not drink this Washington water is that it is meeting the regulations that we have written. I have just had all these congressional regulations that I need. Washington water meets the regulations that we have mandated. I do not want any more of this water that meets these regulations. I would just rather have plain water from the spring.

Now, in addition to what we have demanded in drinking water and what meets its requirements, another thing that concerns anybody that is from an oil-producing State is what they are going to do to secondary recovery of oil. They estimate in this report that it will cost $665 million. I have never seen an estimate yet where they do not miss at least twice.

In other words, if they say $665 million, that means it will run a billion and a half dollars more to meet regulations.

What they are doing in order to recover oil from these old oilfields all over the country way out in the sticks, is to go in, and they take water and pump it back down underneath the oil sand. I saw one well the other day, 7,000 feet, they pumped it down in there, and then the water makes the oil float. And because they are paid what you call a stripper well basis of $18 which they are getting on it, they are able to make money even though 98 percent of the pump back is water and 2 percent oil.

Now with this particular requirement, by the time they get through meeting these Government regulations, the oil producers will not be able to water flood all of these oil reserves that we have all over the country.

We are hoping that secondary and tertiary oil recovery is going to be the major answer where we can help increase production in the United States. EPA water regulations are going to mean more and more costs. Excessive rules provide an unbearable situation on these producing people, and what we are going to do, we are going to force America to continue to be more dependent on imports of the OPEC oil.

Just to remind you, again, and we seem to forget it, 6 years ago our country was importing $3 billion in oil. This year we are importing $60 billion in oil. If we pass this particular provision, we are going to close out the potential that we have for tremendous secondary and tertiary oil recoveries. It is going to be economically impossible to water flood all of these large oil reserve areas. This does not mean anything about pure water. Most of these oilfields are 50 miles out in the country, but with the requirements, you would think you were right under Main Street in downtown New York.

Think about it. The name of the bill is a good name—Safe Drinking Water Act. But what we should do, we ought to think first of the future of America, and the future of America is to send this bill back to committee.

The following are the remarks with the full minority views:

MINORITY VIEWS ON H.R. 3509 SAFE DRINKING WATER ACT AUTHORIZATIONS

H.R. 3509 extends for 3 fiscal years the authorization for programs under the Safe Drinking Water Act. Because the bill is nothing more than a straight-out authorization bill without substantive amendments to the act itself, any amendments not tied to the authorization period could be ruled out of order as nongermane. However, the brevity and scope of the bill mask a number of controversial issues flowing from EPA's administration of the statute.

The contention was made in Committee that the best course of action was oversight coupled with a three-year authorization in light of the ongoing administrative process with respect to some of these matters. The problem with that approach is that it is for practical purposes and instruction to EPA to continue on its course absent effective Congressional input. This is so because the Senate as of now also has a 3-year authorization bill and the prospect of opening up the Act should problems arise in the interim is remote due to lack of leverage—as witness the situation with respect to the Clean Air Act. In light of the significance of the potential disruptive activities of certain aspects of the Act, it would be far preferable to have a one-year authorization to keep EPA on a shorter leash.

Briefly, at least three major problems have cropped up regarding this Act. That is, the proposed national interim primary drinking water regulations on organics, the underground injection regulations (particularly dealing with oil and gas), and certain obstacles in the administration of the program. As previously men-

tioned, the bill unfortunately does not address these vital matters. A short outline of these extremely complicated issues follows:

Organics.—In February 1978, EPA proposed regulations to limit organic chemicals in drinking water. The final regulations will probably be promulgated this summer. The regulation addressed trihalomethanes (which are formed during disinfection with chlorine of water containing naturally occurring materials) and other man-made compounds caused by urban, agricultural, and industrial pollution. Trihalomethanes would be subjected to a maximum contaminant level of 100 parts per billion. This standard would initially apply to systems serving populations of 75,000 or more. Systems serving 10,000 to 75,000 people would have to meet certain monitoring requirements, and those serving less than 10,000 people would be exempt initially. Coverage will be extended to all systems when feasible.

EPA proposed to restrict synthetic organic chemicals by requiring the installation of granular activated carbon (GAC) or some equivalent technology. This requirement would apply to systems serving greater than 75,000 people when monitoring indicates that a given water supply is vulnerable to this sort of contamination.

Not only is the scientific basis for the regulation questionable, but GAC for the proposed purpose with frequent on-site regeneration is not a demonstrably effective treatment technique. GAC would be extremely costly as reflected in larger rate increases for debt services for uses of public drinking water systems; would exacerbate our unfavorable energy situation because it is quite energy intensive; and could cause health hazards of its own. Of course, the impact of GAC would be widespread since many of the affected municipalities are centers of food processing for nationwide distribution.

Underground Injection Control (UIC).—Regulations to control the underground injection of contaminants were first proposed in August of 1976. They were withdrawn after being subjected to numerous adverse comments. They were reproposed on April 20, 1979 with a 120-day comment period. Extensive comments on this subject were received in the 1977 hearings before the Subcommittee and some material was submitted for the record in this year's hearing.

The regulations would establish the technical criteria and standards to be used in implementing the underground injection control program. The regulations propose certain minimum requirements to contain injected and formation fluids. Wells divided into five classes for purposes of regulation, to wit: (1) Waste disposal below lowest underground source of drinking water by industrial, municipal, and nuclear concerns; (2) oil and gas disposal, recovery and storage; (3) special processes such as Frasch sulfur, solution mining, and gasification; (4) hazardous waste into or above lowest underground source of drinking water; and (5) all others such as drainage and recharge.

In the future, EPA proposes to consolidate its regulations for its permit programs under the hazardous waste management program under the Resource Conservation and Recovery Act, the UIC program under the Safe Drinking Water Act, and the National Pollutant Discharge Elimination System under the Clean Water Act.

EPA estimates that the proposed program costs for 5 years would be about $807.9 million of which about $665.2 (or more than 80 percent) would fall on class II wells (oil and gas).

Because most of the cost of the regulations would be borne by the oil and gas industry, the bulk of the attention has focused there. The EPA cost estimate is too low because loss of reserve due to operating costs was not included in the economic study. Aside from aspects of the regulations, a more fundamental objection goes to the threshold question as to whether or not regulations are needed at all. Studies which were prepared by the Interstate Oil Compact Commission in response to a statement by a member of the National Drinking Water Advisory Council reported that petroleum injection operations were not harming underground sources of drinking water in the producing States of Texas, Arkansas, Louisiana, and New Mexico. If States have sound injection control programs relating to oil and gas production, then the existing programs should not be hampered by Federal interference. To the extent that the regulations are unnecessary, they will be a constraint on energy production, divert funds from energy development, and represent an inflationary factor in energy costs.

Administrative Obstacles.—In his statement before our Subcommittee on March 26, Tom Jorling, Assistant Administrator for Water and Waste Management of EPA, mentioned that there were some matters of timing and procedure

that warrant attention at this time. This is so, he said, because "unintended obstacles in the administration of the program, particularly to the States, are being caused." At the end of his formal statement, he gave a brief summary of what he styled as "needed" amendments. These amendments would: (1) Provide more time for States to amend their regulations to correspond with amended Federal regulations, thereby ensuring continuity of grants support and primary enforcement responsibility; (2) extend exemption compliance deadlines for interim primary regulations to the time frame already established in the act relative to the revised regulations, thus providing some systems, particularly the smaller ones, with sufficient time to solve their financial problems and improve their treatment facilities; and (3) adjust the statutory deadline for prohibiting all unregulated injection practices in view of the delay in promulgating final regulations and link the eligibility of States to receive underground injection control grants to the promulgations of final regulations, thus ensuring that they have grant support while seeking to achieve primary enforcement responsibility. Regrettably, these obstacles have not been removed.

JAMES T. BROYHILL.
JAMES M. COLLINS.
EDWARD R. MADIGAN.
DAVE STOCKMAN.
TOM LOEFFLER.
GARY A. LEE.
WILLIAM E. DANNEMEYER.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. Dannemeyer).

Mr. DANNEMEYER. Mr. Speaker, would the gentleman from California (Mr. Waxman) yield for a question?

Mr. WAXMAN. I would be pleased to yield.

Mr. DANNEMEYER. Would the gentleman explain a little, if he would, as to why the authorization in this bill is for more than 1 year? What is the rationale for that?

Mr. WAXMAN. I am sorry. I did not hear the gentleman's question.

Mr. DANNEMEYER. Would the gentleman explain why there is a need legislatively speaking for an authorization longer than 1 year in this bill?

Mr. WAXMAN. Why there is an authorization longer than 1 year for this program?

Mr. DANNEMEYER. That is right.

Mr. WAXMAN. This is an ongoing program. We are authorizing it for a 3-year period. That means we are making a commitment to continue the safe-drinking water program for a 3-year period. However, there are a number of issues that have been raised today and other issues on the minds of all of us about regulations that are being proposed and the directions the EPA may take.

In dealing with those questions, I have clearly expressed my intent to have the subcommittee hold hearings and go into further legislative action on the Safe Drinking Water Act itself without having to wait for an authorization period to expire.

Mr. DANNEMEYER. Would it not make more sense from the standpoint of good legislative policy to limit the authorization for just 1 year to insure that at the expiration of this year that Congress would be able to exercise its appropriate review and oversight function?

Mr. WAXMAN. I do not think we need to exercise the review and oversight function. It seems to me that is an ongoing responsibility. Particularly this legislation, I think, requires of us to continue an oversight investigation into a lot of new areas that they plan to under-

take, even before that year is up, so that we might decide whether we want to take further legislative action on the Safe Drinking Water Act itself.

Mr. DANNEMEYER. If I understand the chairman correctly that some time next year the subcommittee would concern itself with this legislation and would hold hearings of oversight on this specific act?

Mr. WAXMAN. The gentleman is correct.

Mr. DANNEMEYER. Could the gentleman indicate about what time during the year he intends to have those hearings?

Mr. WAXMAN. If the gentleman would yield further, I hope to have those oversight hearings before the subcommittee by the fall of this year, which will enable us to act legislatively early next year if necessary.

Mr. DANNEMEYER. One of the reasons that I ask this question and these questions relates to the question that the gentleman from Texas (Mr. Collins) earlier raised as to just how extensive is this going to impact upon the ability of oil producers in this country to recover oil from marginal fields. It was my feeling that it is appropriate for the Congress to continue oversight, certainly within the year, to determine if really we have priced ourselves out of the ability to recover oil from some of these fields that would be classified as marginal.

I thank the gentleman for his comments.

Mr. WAXMAN. On that very point which was raised by the gentleman from Texas (Mr. Collins) in the full Interstate and Foreign Commerce Committee. I want to point out that the regulations that both of the gentlemen have expressed concern about are now in a period of 120-day comments before EPA.

Therefore, EPA will have 120 days further before they do anything with the regulations, and the regulations will not take effect for 2 years. It is my intent not to wait that long a period of time but to have us make a very clear examination of the impact of that regulation on a whole range of concerns that are before us; and if need be, we will act legislatively to change the law if the subcommittee and the Congress feel that is appropriate, but we will act before those regulations ever take effect.

Mr. DANNEMEYER. I thank the chairman for his comments.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, some remarks were made about clean water. How in the world could any intelligent man be opposed to clean, pure, crystalline water?

Not too long ago the gentleman from Texas (Mr. Gonzalez) asked that we protect the aquifers containing this pure water about the city of San Antonio, and we did that. Water being injected, of course, must be controlled. We have had some very serious trouble with water being injected in New Jersey in the aquifers, and it is my understanding that it will be years before this water can be purified.

Not only that, where we have injections to save oil we can also pollute aquifers and have water rendered not potable for many years. We must protect the pure water system in our country.

I strongly support this legislation and I urge its approval.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Speaker, I wonder if I could ask the distinguished chairman of the subcommittee if he would clarify his intentions regarding this particular area of authorization. Do I understand that prior to the 3-year expiration of the authorization undertaken by this suspension bill that there will be additional legislation reaching the floor?

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. WAXMAN. There is a great deal of concern about the proposed regulations under the Safe Drinking Water Act which has led our subcommittee to the desire to hold hearings on the proposed regulations and to look at the substance of the Safe Drinking Water Act itself. I expect that we will have legislation before the expiration of the authorization period which will deal with these substantive questions in the act itself.

What we propose to do in this legislation merely is to continue the financial authorization for the safe drinking water program, with the understanding that Members will have legislation before them to make substantive changes in the law.

Mr. FOLEY. Does the gentleman assume when the legislation reaches the floor if it deals with any part of the Safe Drinking Water Act that the germaneness rule would not be applied to limit amendments to other parts of the authorization act?

Mr. WAXMAN. If the gentleman will continue to yield, it is always my understanding and would be clearly my intent that the legislation which would make substantive changes in the Safe Drinking Water Act would open up the whole Safe Drinking Water Act to changes. In subcommittee consideration of H.R. 3509, we did not have the opportunity to look into the complicated questions raised by some about the law itself. We were faced with the May 15 authorizing deadline. So what we propose to do is reauthorize the existing drinking water program with the clear commitment that we will then examine the legislation itself to see what changes would be made.

Mr. FOLEY. Does the gentleman assume that it would happen in this Congress?

Mr. WAXMAN. If the gentleman will yield, I would assume it would.

Mr. FOLEY. I thank the gentleman for his assurances.

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. WAXMAN. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. FOLEY. I thank the gentleman for yielding. Mr. Speaker, I am concerned in some areas of the legislation about the effort of many to provide for some form of overview on programs within the jurisdiction of the various committees through sunset legislation being effectively vitiated in committee rather than holding legislation within their jurisdiction to report changes or authorization extensions by the Suspension Calendar, prohibiting Members on the floor from offering relevant amendments. Therefore, I am delighted with the gentleman from California, the distinguished chairman of the subcommittee's assurances that this will be an area where the House will be provided with an opportunity within the near future to work its will on my appropriate amendments to the basic authorization act.

I hope that will be a standard followed by other committees with respect to legislation dealing especially with regulations of the kind involved in the Clean Water Act. I thank the gentleman for his assurances.

Mr. WAXMAN. I thank the gentleman for his comments and I appreciate his indulgence in having our subcommittee look into the substance of the Safe Drinking Water Act during our oversight hearings, and at this time, allowing the authorization of that program to go forward.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. CARTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. Grassley).

Mr. GRASSLEY. Mr. Speaker, I rise in opposition to this bill, not because, as maybe the gentleman from Kentucky implied, that those of us who rise against this bill might be against safe drinking water, for nobody in this chamber is against safe drinking water. But No. 1, because it is on the Suspension Calendar, and No. 2, because we do not have the opportunity to deal with some of these very serious questions that ought to be dealt with.

Quite obviously the chairman of the subcommittee, the gentleman from California (Mr. Waxman) trusts and feels that EPA is going to be a responsible agent of the people of our country. Let me tell the gentleman that he will find otherwise as he serves as chairman of the subcommittee for a long time, as we discovered in the Agriculture Committee. The Members will find that EPA is a bunch of lawyers. They do not know much about the things they are dealing with. They are a group of idealists and eccentrics and we need to put them under control once in awhile. I am a member of the Agriculture Committee, and I ask the subcommittee chairman to listen to the gentleman from Washington, the chairman of the Agriculture Committee, Mr. Foley. The subcommittee chairman will find out the only way we were able to get EPA to listen to the members of the Agriculture Committee on the Federal Pesticide Act, was to give a year-to-year extension of the authorization of that program, not a 3-year program as the gentleman is endeavoring to do here for the Safe Drinking Water Act. He may trust the EPA, and he may have them listening to him, and he may have them being responsible. But I think the gentleman had better question whether or not he really does. A 3-year authorization has given EPA a free reign that the agency should not have.

Had we given them that with the Federal Pesticide Act we would never have gotten any reforms brought about in that act. I think the irresponsibility of EPA is best illustrated by the rules and regulations they promulgated under the Safe Drinking Water Act in February 1978. Those rules were very irresponsible. They only allowed one way of purifying water. They applied it to all cities over 70,000. That is irresponsible, and because of that activity we need an opportunity to amend this act. That is why I ask the Members to vote down this bill on suspension so we can gain an opportunity to propose a 1-year-only authorization.

Mr. CARTER. Mr. Speaker, I strongly support the legislation that is before us today. Again, I strongly support pure, clean, crystalline water, water that is healthful and wholesome, and water that satisfies

a person when he is suffering from thirst. Water which drops as the gentle rain from heaven. It is twice bless; it blesses the one who gives and the one who receives.

I strongly support pure drinking water and this legislation, Mr. Speaker.

Mr. JENRETTE. Mr. Speaker, I have discussed with the gentleman from California (Mr. Waxman) a problem we are facing in South Carolina. As he knows, the interim primary drinking water regulations set a maximum contaminant level for fluoride. Many small towns and cities in my district have determined that they do not meet the fluoride standard, and that it will be very costly for them to install and operate the requisite technology so that they might meet the standards. They further question whether the negative or adverse effects of natural fluoride in water has on a small percentage of the population warrants the massive investments required to filter it out. This is especially true during these hard economic times.

It is my understanding the EPA is aware of this situation and is engaging in discussion with officials of South Carolina to assess the effect of fluoride on human health, especially on teeth. It is also my understanding that this committee plans to hold oversight hearings on a number of different issues pertaining to drinking water, including the problems facing small systems. We need some assistance and the people need relief. Toward this end I have introduced a bill to provide relief until the true effects on the population in question can be closely examined to determine if the negative impact is sufficient enough to warrant these extreme measures.

I am pleased that the Chairman, Mr. Waxman, feels it would be very helpful to the Subcommittee on Health and the Environment to focus on the problem posed by naturally occurring fluoride during oversight hearings and that he is willing to work with South Carolina and other States to this end. Further, I understand, the committee will give my bill every consideration. I understand EPA is presently studying the health effects of fluoride and I look forward to receiving the report when the study is concluded. Finally, I want to thank Mr. Waxman and his subcommittee for the consideration shown me.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. Waxman) that the House suspend the rules and pass the bill H.R. 3509.

The question was taken.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

* * * * * * *

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3509.

The clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Waxman) that the House sus-

pend the rules and pass the bill H.R. 3509, on which the yeas and nays are ordered.

* * * * * * *

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. Waxman) that the House suspend the rules and pass the bill, H.R. 3509, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 319, nays 76, not voting 39, as follows:

[Roll No. 398]

YEAS—319

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner

Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaPalce
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Shelby
Simon
Slack
Smith, Iowa
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Van Deerlin
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NAYS—76

Applegate	Grassley	Roberts
Archer	Hall, Tex.	Robinson
Ashbrook	Hansen	Rousselot
Badham	Holt	Rudd
Bauman	Huckaby	Runnels
Beard, Tenn.	Ichord	Satterfield
Bennett	Jeffries	Sensebrenner
Broyhill	Jenrette	Shumway
Butler	Jones, N.C.	Shuster
Carney	Kelly	Shelton
Cavanaugh	Kindness	Smith, Nebr.
Collins, Tex.	Kramer	Stenholm
Crane, Daniel	Lagomarsino	Stockman
Crane, Philip	Leath, Tex.	Stump
Daniel, Dan	Lewis	Symms
Daniel, R. W.	Livingston	Tauke
Dannemeyer	Loeffler	Taylor
Davis, Mich.	Lungren	Thomas
Devine	McDonald	Ullman
Edwards, Okla.	Montgomery	Volkmer
Evans, Ga.	Moore	Williams, Mont.
Evans, Ind.	Myers, Ind.	Wilson, Bob
Findley	Pashayan	Wydler
Gingrich	Paul	Young, Mo.
Glickman	Quayle	
Goldwater	Quillen	

NOT VOTING—39

Ambro	Fish	Nolan
Berouter	Flood	Oakar
Bolling	Forsythe	Patterson
Breaux	Garcia	Pease
Chisholm	Giaimo	Railsback
Clay	Hawkins	Rhodes
Collins, Ill.	Holland	Rodino
Conyers	Hyde	Rostenkowski
Corman	Johnson, Colo.	Sebelius
Diggs	McKay	Treen
Dixon	Marlenee	Vander Jagt
Dougherty	Martin	Williams, Ohio
Duncan, Oreg.	Mathis	Wright

Mr. Rodino with Mr. Vander Jagt.
Mr. Ambro with Mr. Railsback.
Mr. Rostenkowski with Mr. Treen.
Mrs. Chisholm with Mr. Sebelius.
Mr. Giaimo with Mr. Johnson of Colorado.
Mr. Clay with Mr. Marlenee.
Mr. McKay with Mr. Fish.
Mr. Wright with Mr. Forsythe.
Mr. Pease with Mr. Hyde.
Mr. Hawkins with Mr. Williams of Ohio.
Mr. Breaux with Mr. Martin.
Mrs. Collins of Illinois with Mr. Dougherty.
Mr. Corman with Mr. Bereuter.
Mr. Dixon with Mr. Holland.
Mr. Conyers with Mr. Garcia.
Mr. Duncan of Oregon with Mr. Mathis.
Mr. Nolan with Ms. Oakar.
Mr. Patterson with Mr. Flood.

Messrs. Livingston, Evans of Georgia, Huckaby, and Kindness changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1146) to amend title XIV of the Public Health Service Act, as amended by the Safe Drinking Water Act (88 Stat. 1680, 42 U.S.C. 300j), to extend for 3 fiscal years the authorization for appropriations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1444 of the Public Health Service Act is amended by adding a new subsection (e), which shall read as follows:

"(e) The administrator shall establish demonstration projects for the abatement and control of drinking water contaminants, including both synthetic, organic and inorganic substances, in water supply systems serving five thousand persons or less. For purposes of this subsection, there are authorized to be appropriated $1,000,000, which shall remain available until expended.".

SEC. 2. (a) Section 1442(e) of the Public Health Service Act is amended by striking "and" immediately following "1977;" and by inserting after "1979" and before the period: "; $21,405,000 for fiscal year 1980; $24,647,000 for fiscal year 1981; and $30,485,000 for fiscal year 1982.".

(b) Section 1443 of the Public Health Service Act is amended—

(1) by striking "and" immediately following "1978" in paragraph (a)(7) and inserting after "1979" and immediately following the period: "; $29,000,000 for fiscal year 1980; $30,000,000 for fiscal year 1981; and $35,943,000 for fiscal year 1982.".

(2) by striking "and" immediately preceding "$10,000,000" in paragraph (b)(5) and inserting after "1979" and immediately before the period: "; $7,795,000 for fiscal year 1980; $14,453,000 for fiscal year 1981; and $15,172,000 for fiscal year 1982.".

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Waxman moves to strike out all after the enacting clause of the Senate bill (S. 1146) and to insert in lieu thereof the provisions of H.R. 3509, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: To extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act.

A motion to reconsider was laid on the table.

A similar House bill, H.R. 3509, was laid on the table.

ADMINISTRATION TESTIMONY AT HOUSE HEARING

SAFE DRINKING WATER ACT AUTHORIZATION

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 3040

A BILL TO EXTEND FOR THREE FISCAL YEARS THE AUTHORIZATIONS FOR APPROPRIATIONS UNDER THE SAFE DRINKING WATER ACT

MARCH 26, 1979

Serial No. 96–7

Printed for the use of the
Committee on Interstate and Foreign Commerce

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1979

45-756 O

90-224 O - 82 - 12

SAFE DRINKING WATER ACT AUTHORIZATION

MONDAY, MARCH 26, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2218, Rayburn House Office Building, Hon. Henry A. Waxman, chairman, presiding.

* * * * * * *

Mr. WAXMAN. * * *

I would like to now call Thomas C. Jorling, Assistant Administrator for Water and Waste Management, Environmental Protection Agency, and Victor J. Kimm, Deputy Assistant Administrator for Drinking Water, Environmental Protection Agency.

* * * * * * *

Note.—Additional material not directly related to legislative proposals was supplied by Administration witnesses to the Subcommittee. Some of that material has been omitted from this legislative history and may be found in the record of the hearing.

My name is Thomas C. Jorling, Assistant Administrator for Water and Waste Management of the Environmental Protection Agency. I welcome the opportunity to appear here today to speak in support of reauthorization of EPA's safe drinking water program.

On February 23 of this year, EPA sent to the Congress a draft bill to extend our safe drinking water authorities for two years. As you know, our authorities for this program are contained in Title XIV of the Public Health Service Act, the "Safe Drinking Water Act", which expires on September 30, 1979. Our proposed bill provides appropriation authorization for our non-research activities, including training and technical assistance, the establishment and revision of primary and secondary drinking water regulations, State public water system supervision grants, promulgation of regulations and issuance of State grants to protect underground drinking water sources, and assumption by EPA of primary enforcement responsibilities in those States which have opted for Federal enforcement of drinking water programs. The proposed bill would also extend the authority of the Federal government to ensure that adequate supplies of chemicals used in drinking water treatment are made available.

We recommend that the Congress enact this legislation so that we may continue our efforts to ensure a safe and adequate supply of public drinking water.

As you know, two major EPA programs were launched with enactment of the Safe Drinking Water Act in December 1974. One was an effort to ensure the safety of the Nation's public water supplies and the other to protect underground sources of drinking water from contamination through injection wells. We believe significant strides have been made in bringing water treatment practices throughout the country up to national standards. With the assistance of the States, the water supply industry, and active and

concerned members of the public, we believe that our progress in this area represents a new dimension of environmental control and public health protection.

I would like to highlight briefly for you now the progress we have made and the problems we have encountered in the implementation of our safe drinking water authorities.

National drinking water standards have been established and serve as the basis for the first nationwide program of monitoring of public water supplies.

As intended by the Congress, the States have become genuine partners in this effort. Forty of them have changed their laws and regulations to match Federal requirements, thus making them eligible for primary enforcement responsibility as provided in the Safe Drinking Water Act, as amended. Approximately five additional States are expected to achieve primary enforcement responsibility before the end of FY 79. A current listing of the primacy States appears t the end of my statement. We have worked closely with the States in implementing the public water system supervision program. We were very pleased by the favorable testimony of the Conference of State Sanitary Engineers delivered before this Committee during its oversight hearings last year as well as on the House side.

To date, more than seventy million dollars in State program grants have been awarded. To addition, the States have increased their own expenditures for water supply programs by almost a third. Prior to the enactment of the Safe Drinking Water Act, annual expenditures at the State level amounted to about sixteen million dollars. In fiscal year 1979, the State level investment, combining Federal grants and State appropriations, totalled more than forty seven million dollars. State staffs have doubled and their programs have been substantially expanded.

Tens of thousands of water plant operators have been trained in the regulatory requirements and in the skills and knowledge they need to achieve compliance. Local officials and the general public are better informed than ever before

on the issues of drinking water quality. This informational and educational program has been conducted by EPA and the States with the grant-supported assistance of the American Water Works Association, Conference of State Sanitary Engineers, the League of Women Voters, and other non-profit organizations of State and local governments.

Public notification is working very well. As required by the Act, violations of the regulations are being reported to consumers. Corrections and improvements in water treatment plants may be attributed, in some part, to increased public awareness generated by the public notice requirement. Many violations are being corrected without the need for enforcement action. These corrections are being made as cooperative efforts among EPA, the States, local communities, and the utilities. The public notice provision of the Act has also significantly increased public participation in problem-solving efforts and is facilitating the steady improvement of water quality throughout the country with a relatively small expenditure of EPA resources. As more experience is gained, we believe that the public notification requirement will prove to be a success in innovative legislation.

The National Drinking Water Advisory Council, mandated by the Act, has played an important role in the development of regulations and program activities, ensuring that the program moves forward with the active participation of the States, the industry, and the general public. The efforts of this group have contributed greatly to the public recognition of the fact that this program is generally responsive to outside suggestions.

In short, much has been accomplished in the few years since the Act was passed. However, the legislatively mandated research and other studies have clearly established that we are a long way from eliminating all concerns about drinking water. More time and effort are needed to bring State staffs and program operations to their optimal levels. Upgrading utilities and operators to acceptable levels of proficiency will require an on-going program of technical assistance.

We know that the scope of the interim drinking water standards will have to be expanded to include organic chemicals and other contaminants indicated by accumulated data and on-going scientific research. The Act, in fact, requires revised standards to be promulgated, based on recommendations of the National Academy of Sciences. The NAS determined that it was not scientifically possible to determine No-Adverse-Effect levels for some drinking water contaminants. Therefore, EPA will have to conduct additional research studies to develop more comprehensive standards. The President's 1980 budget request includes a $5 million initiative to move forward on public health related research to improve standard setting.

Before moving on to report on the groundwater protection program, let me dwell for a moment on a particularly significant current activity: our proposed regulations to limit organic chemicals in drinking water.

Organics

The question of organic chemical contamination of drinking water was one of the motivating forces in the passage of the Act. Since 1975, it has been a major focus of our program. About one-half of our research effort has been invested in monitoring techniques, health effects, control technology and costs, and economic impacts related to the control of organic contaminants in drinking water.

In February of 1978, the Agency proposed a regulation to control organic contaminants, addressing the two parts of the problem: first, a family of organic chemicals called trihalomethanes, including chloroform, which are formed during the process of disinfection with chlorine of water containing naturally occurring precursor material; and, second, the presence of a multitude of other potentially harmful man-made organic compounds caused by industrial pollution and agricultural and urban run-off into our drinking water sources.

The proposed regulation was divided into two parts in response to the two problems. Trihalomethanes, which are widely prevalent, and subject to a maximum contaminant level

of 100 parts per billion. This standard would apply to all systems serving populations of 75,000 or more and can be met by many techniques available to the utilities. The second part of the regulation is directed to a wide range of synthetic organic chemicals that may be present in small amounts in some water supplies. Communities of 75,000 or more whose water supplies are vulnerable to this sort of contamination would be required to install granular activated carbon (GAC) or some equivalent technology. This approach to controlling potentially harmful contaminants was expressly provided in the Act for situations in which it is not technically and economically feasible to monitor for the contaminants of concern. For both parts of the regulation, it is anticipated that coverage will be extended to all-sized systems as soon as it is feasible to do so.

This is the situation in which we find ourselves. The NAS, in its report, Drinking Water and Health, listed 22 known or suspected carcinogens that have been found in some drinking waters. Other possible carcinogens will undoubtedly be found as monitoring and toxicology studies continue. Since "safe" or "no risk" levels cannot be determined for carcinogens, we must try to reduce human exposures to those chemicals as much as feasible. We have attempted to deal with this problem in our proposal by means of a treatment requirement for GAC or an equivalent technology to remove a broad spectrum of synthetic chemicals. However, this requirement would be enforced only when the required monitoring indicates that a given water supply is vulnerable to this sort of contamination. Where this is not the case, the utility would be granted a variance and would not have to introduce granular activated carbon or equivalent technology into its treatment processes. Where significant contamination is found, the regulation, as proposed, would provide for a period of design and pilot studies to determine the most effective and economical treatment methods for particular local problems. Additional time is allowed for any necessary construction.

Generally speaking, water utilities and State regulatory agencies have been skeptical of the health basis of the proposal and of the new direction in water treatment technology proposed in response to the presence of synthetic compounds -- the use of granular activated carbon. Considerable concern has also been expressed about the costs of introducing this new technology.

Indeed, comments on these concerns were made by both House and Senate Appropriations Committees in July and August of last year. During that same period, the Agency prepared a "White Paper" in response to the most common objections and published it in the Federal Register for additional public review and comment as a supplement to our proposed regulations. I want to assure the Committee that we are considering every comment we have received on this issue in our review of the more than 300 oral comments presented at eight public hearings and the 600 written statements received during the public comment period.

It is important to note, I think, that the motivating forces behind acting to control organic chemicals include the legislative history of the Act and Congressional concerns about organic contaminants, a court order to the effect that the statute obliges us to take action, and the mandate in the President's Environmental Message of May, 1977, which called for EPA "to set standards under the Safe Drinking Water Act which will limit human exposure to toxic substances in drinking water, beginning with potential carcinogens." There is still much to learn, and our research effort will continue in evaluating risks, toxicology, analytical chemistry and treatment technology. Nevertheless, in proposing these regulations, the Agency was persuaded that there is sufficient information to conclude that there are serious long-term health risks from the ingestion of some organic compounds and that these risks call for regulatory action under the Act. Human exposure should be reduced to the extent that it is economically and technologically feasible to do so. It is noteworthy that this view is supported by the National Cancer Institute, the

National Institute of Environmental Health Sciences, the Food and Drug Administration, and the Occupational Safety and Health Administration.

In September, we received the NAS review of the preliminary epidemiological studies on organics in drinking water as they related to health risks. The report was consistent with EPA's position in the proposed regulation that such studies have certain deficiencies. They did not establish causality but were useful in generating the hypothesis that there might be a relationship between chloroform and bladder cancer incidence. To determine whether or not the hypothesis is valid, more detailed studies taking into account confounding factors such as smoking, occupation, and coffee consumption would have to be performed. The NAS cautioned that even in further studies, effects might not be distinguishable from the confounding factors. Thus, we must rely primarily on the generally accepted scientific interpretation of the results of animal feeding studies.

The final provisions of the regulations have not as yet been formulated. We are just now completing our study of the voluminous comments and recommendations that were made. It is our intention to consider every suggestion carefully and to develop a program that will reflect the best thinking of science, industry, and public health policymakers. Thus, it is our hope that the final regulations, which should be promulgated this summer, will win the support of all involved and be recognized as an historic first step in the reduction of human exposure to the long-range threat of chemical contamination of drinking water.

In this context, it should be noted that the proposed regulations complement EPA's other efforts to reduce human exposure to toxic pollutants under the authorities provided by the Clean Water Act of 1977, the Resource Conservation and Recovery Act, and the Toxic Substances Control Act. Additionally, the organics regulation is not the only issue in the protection of the public health through drinking water.

The future is studded with issues and questions that must be researched and addressed: the control of corrosion in distribution systems, which adds heavy metals to some water supplies; a better understanding and control of other potentially harmful constituents in some drinking water sources, such as asbestos; and, the soft water/heart disease and sodium/hypertension questions. All this means that the Safe Drinking Water program is in the early stages of a new era in water treatment standards and technology. We do not have all the answers, for the questions are only beginning to take shape. We do know that the Safe Drinking Water Act has stimulated the Nation to reflect on the complex relationship between drinking water and the public health.

Groundwater Protection

Launching the Groundwater Protection Program has been more difficult and time-consuming than anticipated at the time the legislation was enacted. The major obstacles have been:

- a lack of basic data on almost every aspect of the problem;
- the complexity of coordination with other environmental statutes, most recently the 1977 Clean Water Act Amendments and the Resource Conservation and Recovery Act; and
- finally, because there are literally hundreds of thousands of wells to be regulated, we must exercise great care in regulating controls and projecting probable social and economic impacts.

Three actions in the Groundwater Protection Program merit your attention.

First, regulations to control the underground injection of contaminants were proposed in August, 1976. Based on extensive public comment, they have been substantially revised, especially in relation to oil and gas injection practices and shallow wells. We expect to re-propose these regulations in the next few weeks, as they are now in the very final stages of Agency review prior to reproposal for public comment.

Second, the grant regulations required to begin the flow of Federal program grants to the States, were promulgated on October 12, 1978. The first round of grants to States is now being negotiated.

Finally, on September 25, 1978, the Administrator published in the Federal Register the initial States designated as requiring and underground injection control program. (The list is appended to this statement as Attachment II.) We expect to list all of the remaining States by May, 1980.

We have launched a nationwide assessment of surface impoundments (pits, ponds, and lagoons) and their potential for contaminating groundwater. That program is being conducted by the States using Federal grants. The final report of this effort is expected in June, 1980.

The final regulations governing the designation of sole source aquifers will be promulgated shortly. Incidentally, under the sole source aquifer provision, section 1424(e) of the Act, four designations have already been made and nine additional petitions are under review.

In short, we have now reached the threshold of a comprehensive program of action to protect the nation's groundwater resources. Getting to this point has been tedious and difficult, but we believe an effective, coordinated Federal - State effort has been developed and made ready for implementation.

Program Coordination and Integration

In regard to both the groundwater protection program and the public water system supervision program, we have been pursuing a vigorous policy of coordination and integration with related programs in EPA and in other agencies. A few of these initiatives warrant the Committee's attention.

For example, we have been developing a consistent approach to groundwater protection that integrates section 1421 of the Safe Drinking Water Act, Subtitle C and D of the Resource Conservation and Recovery Act, and section 208 of the Clean Water Act. Regulations being developed under these provisions will be complementary and non-duplicative,

offering an efficient mix of authorities to control the pollution of groundwater.

We have also begun the consolidation of the permit program regulations for the National Pollutant Discharge Elimination System (NPDES) program under the Clean Water Act, the Hazardous Waste program under RCRA, and the Underground Injection Control program under the Drinking Water Act. These regulations, which will be proposed for public comment in the next few months, will provide for consistent requirements within the limits of the enabling legislation for all three permit programs as well as consistent procedures for State delegation to the maximum extent consistent with the applicable statutes.

Joint headquarters efforts to meet requirements of the Safe Drinking Water Act Amendments of 1977 and the Federal Water Pollution Control Act Amendments of 1977 are also underway. There will be a study to assess available data on water supply demand and water supply usage, now and over the next 15 to 20 years. The study will consider conservation measures and reuse and will make recommendations on preparing facilities plans on the basis of anticipated water supply needs. As required by section 516(e) of the Clean Water Act, EPA will be submitting a report to the Congress together with legislative recommendations on a program to coordinate the planning of water supplies and wastewater treatment projects.

EPA is also working with the Food and Drug Administration to clarify responsibilities for the control of direct and indirect additives to drinking water. A memorandum of understanding delineating the responsibilities of the two agencies is being drafted and will be signed in the next few months as soon as the details can be completed. One of the related activities is a project to be begun by the National Academy of Sciences to create a Codex, quality standards for bulk chemicals used in water treatment.

Another interagency effort is an agreement with the Indian Health Service to coordinate efforts of both agencies to ensure that Indians receive the full benefits of the Safe

Drinking Water Act and Indian Health Service programs.

Research and Special Studies

It is appropriate on this occasion to report on the Agency's progress with respect to research efforts and special studies mandated by the Act and its 1977 Amendments. A complete listing of completed studies is appended to this statement as Attachment III. A few highlights merit attention.

During the past year approximatety $15 million has been spent on a varied research program including short- and long-range health effects studies as well studies of improved analytical methods and treatment techniques. For example, animal and epidemiological studies have been conducted to examine the relationship between diseases such as cancer and cardiovascular disease and drinking water quality.

EPA is also in the process of completing two other studies stipulated in the Act. The first of these is a study of viruses in drinking water. Our final report on this is in final preparation for forwarding to the Congress. Second, we are completing work on the final draft of a interim report on the Rural Water Survey to be submitted to Congress before the final report is due early next year.

We have initiated several studies required by the 1977 Amendments to the Safe Drinking Water Act, which include:

- o a study of water treatment costs including alternative compliance methods and the pros and cons of available financing methods, as well as the need for additional Federal subsidies in the future;
- o a study of the present and projected future availability of an adequate and dependable supply of safe drinking water;
- o a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water; and
- o a study of the reaction of chlorine and humic acids and the effect of resulting contaminants on human health.

In concluding my remarks about our safe drinking water

program and its authorizing legislation, let me say that we believe the Safe Drinking Water Act is basically sound and effective. It does not need any broad reconsideration at this time which would lead to major amendments. We believe it deserves more time and experience in implementation before judgments can be made on changing it. However, there are a few minor matters of timing and procedure that warrant attention at this time when the authorizations are being extended. Unintended obstacles in the administration of the program, particularly to the States, are being caused. A brief summary of several of these needed amendments are set out in Attachment IV.

This concludes my prepared remarks, Mr. Chairman. I would be pleased to answer any questions you may have.

ATTACHMENT I

STATUS REPORT ON STATE ASSUMPTION OF PRIMARY ENFORCEMENT RESPONSIBILITY (PRIMACY) FOR PUBLIC WATER SYSTEM SUPERVISION PROGRAM UNDER THE SAFE DRINKING WATER ACT
as of February 22, 1979

1. Present States with Primacy - 40 States.

Oklahoma	Massachusetts
Connecticut	Texas
Louisiana	Michigan
Mississippi	Maryland
Nebraska	North Dakota
Alabama	Florida
Arkansas	Wisconsin
Georgia	Nevada
New York	Kansas
Virginia	Montana
Iowa	Idaho
Minnesota	Washington
Tennessee	California
South Carolina	New Mexico
Maine	Delaware
Hawaii	West Virginia
Kentucky	Colorado
New Hampshire	Alaska
Rhode Island	Trust Territories of Pacific Islands
Guam	
Arizona	

II. Following States are Expected to Assume Primacy in FY 79.

New Jersey	Ohio
Virgin Islands	Missouri
Puerto Rico	Vermont
North Mariana Is.	American Samoa

III. Following States are Projected to Assume Primacy in FY 80.

Illinois
North Carolina

IV. States Without Primacy Intentions.

Indiana	Oregon
Pennsylvania	District of Columbia

ATTACHMENT II

STATES DESIGNATED AS REQUIRING AN UNDERGROUND INJECTION CONTROL PROGRAM

TEXAS
PENNSYLVANIA
LOUISIANA
CALIFORNIA
KANSAS
MICHIGAN
ILLINOIS
WYOMING
NEW YORK
OHIO
OKLAHOMA
WEST VIRGINIA
INDIANA
NEW MEXICO
FLORIDA
KENTUCKY
UTAH
COLORADO
MISSISSIPPI
IOWA
ARIZONA
ARKANSAS

ATTACHMENT III

LISTING OF STUDIES MANDATED BY THE SAFE DRINKING WATER ACT

- Report to Congress -- Preliminary Assessment of Suspected Carcinogens in Drinking Water in December 1975.
- Impact on Underground Sources of Application of Pesticides and Fertilizers in 1976.
- Report to Congress -- Waste Disposal Practices and their Effects on Groundwater in January 1977.
- Drinking Water and Health, a study of the National Academy of Sciences, in June 1977.
- Impact of Abandoned Wells on Ground Water in August 1977.
- Underground Injection Methods Which Do Not Endanger Underground Water Sources in December 1977.
- Surface Impoundments and their Effects on Ground Water Quality in the United States -- a Preliminary Survey in August 1978.
- Identification of Potential Contaminants of Underground Water Sources from Land Spills in August 1978.

ATTACHMENT IV
SUMMARY OF PROPOSED AMENDMENTS TO THE
SAFE DRINKING WATER ACT

State Primacy

For the States to maintain primacy and eligibility for continued grants, they must have regulations at least as stringent as the Federal regulations. When the Federal regulations change, as they are expected to do this summer, the States must introduce the same changes. In many cases, their administrative and legislative procedures will not permit them to act fast enough. Therefore, EPA will be compelled by the Act to discontinue its grants, withdraw primary enforcement responsibility, and take over those programs. This problem could be avoided if the Act allowed the States up to two years to modify their regulations.

Exemptions

We propose that the statutorily imposed compliance deadlines of 1981 and 1983 be changed. Among the reasons for this recommendation are the difficulties being experienced by some utilities, particularly in small communities, in achieving compliance, and the fact that it took longer to promulgate the interim regulations than anticipated in the Act. We believe that the seven-and nine year exemption periods provided for the revised regulations should also apply to the interim regulations. This added flexibility should not delay compliance where it is feasible, but rather simply provide more time where it is necessary.

Underground Injection Control Program

The Act calls for State programs to prohibit any injection practice not covered by permit or rule to be in effect in December, 1977. Since it is impossible for this deadline to be met, it would seem fair to change the statute by allowing States up to five years after their programs are approved to impose this prohibition.

Another UIC deadline requiring adjustment is State eligibility for grant funds. Under the existing grant provisions, a State's eligibility for funding expires two years from the date of its first grant, unless it has assumed primacy. Since grants will have been awarded to States to allow them to undertake some program activities even though the section 1421 regulations have not yet been promulgated, funding will expire while the States are still working towards assumption of primacy. This amendment would tie the two year eligibility period to the date the regulations are promulgated, rather than to the first grant.

90-224 O - 82 - 13

SUMMARY STATEMENT OF
THOMAS C. JORLING
ASSISTANT ADMINISTRATOR FOR
WATER AND WASTE MANAGEMENT
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
HOUSE OF REPRESENTATIVES
MARCH 26, 1979

My name is Thomas C. Jorling, Assistant Administrator for Water and Waste Management of the Environmental Protection Agency. I welcome the opportunity to appear here today to speak in support of reauthorization of EPA's safe drinking water program.

On February 23 of this year, EPA sent to the Congress a draft bill to extend our safe drinking water authorities for two years. As you know, our authority for this program is contained in Title XIV of the Public Health Service Act, the "Safe Drinking Water Act", which expires on September 30, 1979.

We recommend that the Congress enact this legislation so that we may continue our efforts to ensure a safe and adequate supply of public drinking water.

As you know, two major EPA programs were launched with enactment of the Safe Drinking Water Act in December 1974. One was an effort to ensure the safety of the Nation's public water supplies and the other to protect underground

sources of drinking water from contamination through injection wells. We believe significant strides have been made in bringing water treatment practices throughout the country up to national standards. With the assistance of the States, the water supply industry, and active and concerned members of the public, we believe that our progress in this area represents a new dimension of environmental control and public health protection.

I would like to highlight briefly for you the progress we have made and the problems we have encountered in the implementation of our safe drinking water authorities.

National interim primary drinking water standards have been established and serve as the basis for the first nationwide program of monitoring of public water supplies. Work is continuing on the development of more comprehensive drinking water standards as prescribed in the Act, drawing heavily on a major study of health effects conducted by the National Academy of Sciences.

As intended by the Congress, the States have become genuine partners in this effort. Forty of them have changed their laws and regulations to match Federal requirements, and have been given primary enforcement responsibility as provided in the Safe Drinking Water Act, as amended.

Approximately five additional States are expected to achieve primary enforcement responsibility before the end of FY 79.

To date, more than seventy million dollars in State program grants have been awarded. In addition, the States have increased their own expenditures for water supply programs by almost a third.

Public notification is working very well. As required by the Act, violations of the regulations are being reported to consumers. Corrections and improvements in water treatment plants may be attributed, in some part, to increased public awareness generated by the public notice requirement. Many violations are being corrected without the need for enforcement action. These corrections are being made as cooperative efforts among EPA, the states, local communities, and the utilities. The public notice provision of the Act has also significantly increased public participation in problem-solving efforts and is facilitating the steady improvement of water quality throughout the country with a relatively small expenditure of ERA resources. As more experience is gained, we believe that the public notification requirement will prove to be a success in innovative legislation.

We know that the scope of the interim primary drinking water standards will have to be expanded to include organic chemicals and other contaminants indicated by accumulated data and on-going scientific research. The Act, in fact, requires revised standards to be promulgated based on recommendations of the National Academy of Sciences. The NAS determined that it was not scientifically possible to determine No-Adverse-Effect levels for some drinking water contaminants and that any exposure, therefore, carries some risk. Therefore, EPA has begun additional research studies to develop more comprehensive standards. I will note here that the President's 1980 budget request includes a $5 million initiative to move forward on public health related research to improve standard setting.

Before moving on to report on the groundwater protection program, let me briefly discuss one particularly significant current activity: our proposed regulations to limit organic chemicals in drinking water.

Organics

The question of organic chemical contamination of drinking water was one of the motivating forces in the passage of the Act. Since 1975, it has been a major focus of our program.

In February of 1978, the Agency proposed a regulation to control organic contaminants, addressing the two parts of the problem: first, a family of organic chemicals called trihalomethanes, including chloroform, which are formed during the process of disinfection with chlorine of water containing naturally occurring precursor materials; and, second, the presence of a multitude of other potentially harmful man-made organic compounds caused by industrial pollution and agricultural and urban run-off into our drinking water sources.

The proposed regulation was divided into two parts in response to the two problems. Trihalomethanes, which are widely prevalent, are subject to a maximum contaminant level of 100 parts per billion. This standard would initially apply to all systems serving populations of 75,000 or more and can be met by many techniques available to the utilities. The second part of the regulation is directed to a wide range of synthetic organic chemicals that may be present in some water supplies. Communities of 75,000 or more whose water supplies are vulnerable to this sort of contamination would be required to install granular activated carbon (GAC) or some equivalent technology. This approach to controlling potentially harmful contaminants was

expressly provided in the Act for situations in which it is not technically and economically feasible to monitor for the contaminants of concern. For both parts of the regulation, it is anticipated that coverage will be extended to all-sized systems as soon as it is feasible to do so.

This is the situation in which we find ourselves. The NAS, in its report, Drinking Water and Health, listed 22 known or suspected carcinogens that have been found in some drinking waters. Other possible carcinogens will undoubtedly be found as monitoring and toxicology studies continue. Since "safe" or "no risk" levels cannot be determined for carcinogens, we must try to reduce human exposures to those chemicals as much as feasible. We have attempted to deal with this problem in our proposal by means of a treatment requirement for GAC or an equivalent technology to remove a broad spectrum of synthetic chemicals. However, this requirement would apply only when the required monitoring indicates that a given water supply is vulnerable to this sort of contamination. Where this is not the case, the utility would be granted a variance and would not have to introduce GAC or equivalent technology into its treatment processes. Where significant contaminaiton is found, the regulation, as proposed, would

provide for phased implementation, including time for pilot studies to determine the most effective and economical treatment methods for particular local problems. Additional time is allowed for any necessary construction.

There is still much to learn, and our research effort will continue in evaluating risks, toxicology, analytical chemistry and treatment technology. Nevertheless, in proposing these regulations, the Agency was persuaded that there is sufficient information to conclude that there are serious long term health risks from the ingestion of some organic compounds and that these risks call for regulatory action under the Act. Human exposure should be reduced to the extent that it is economically and technologically feasible to do so.

The final provisions of the regulations have not as yet been formulated. We are just now completing our study of more than 900 separate comments and recommendations that were made. It is our intention to consider every suggestion carefully and to develop a program that will reflect the best thinking of science, industry, and public health policymakers. Thus, it is our hope that the final regulations, which should be promulgated this summer, will win the support of all involved and be recognized as an

historic first step in the reduction of human exposure to the long range threat of chemical contamination of drinking water.

Organics regulation is not the only issue in the protection of the public health through drinking water. The future is studded with issues and questions that must be researched and addressed: the control of corrosion in distribution systems, which adds heavy metals to some water supplies; a better understanding and control of other potentially harmful constituents in some drinking water sources, such as asbestos; and, the soft water/heart disease and sodium/hypertension questions. All this means that the Safe Drinking Water program is in the early stages of a new era in water treatment standards and technology. We do not have all the answers, for the questions are only beginning to take shape. We do know that the Safe Drinking Water Act has stimulated the Nation to reflect on the complex relationshhip between drinking water and the public health.

Groundwater Protection

Launching the Groundwater Protection Program has been more difficult and time-consuming than anticipated at the time the legislation was enacted. After overcoming the

initial obstacles, we can report on three major actions in the groundwater protection program.

First, regulations to control the underground injection of contaminants were proposed in August, 1976. Based on extensive public comment, they have been substantially revised, especially in relation to oil and gas injection practices and shallow wells. We expect to re-propose these regulations in the next few weeks, as they are now in the very final stages of Agency review prior to reproposal for public comment.

Second, the grant regulations required to begin the flow of Federal program grants to the States to develop groundwater protection programs, were promulgated on October 12, 1978. The first round of grants to the States are currently being negotiated.

Finally, on September 25, 1978, the Administrator published in the FEDERAL REGISTER the initial States designated as requiring an underground injection control program. We expect to list all of the remaining States by May, 1980.

Program Coordination and Integration

In regard to both the groundwater protection program and the public water system supervision program, we have been pursuing a vigorous policy of coordinating and integrating

our drinking water program with related programs within EPA and those of other agencies.

For example, we have been developing a consistent approach to groundwater protection that integrates section 1421 of the Safe Drinking Water Act, Subtitle C and D of the Resource Conservation and Recovery Act, and section 208 of the Clean Water Act. Regulations being developed under these provisions will be complementary and non-duplicative, offering an efficient mix of authorities to control the pollution of groundwater.

We have also begun the consolidation of the permit program regulations for the National Pollutant Discharge Elimination System (NPDES) program under the Clean Water Act, the Hazardous Waste program under RCRA, and the Underground Injection Control Program under the Drinking Water Act. These regulations, which will be proposed for public comment in the next few months, will ensure consistency among the requirements for all three permit programs as well as consistent procedures for State delegations to the maximum extent consistent with each of the statutes.

In concluding my remarks about our safe drinking water program and its authorizing legislation, let me say that we believe the Safe Drinking Water Act is basically sound and effective. It does not need any broad reconsideration at this time which would lead to major amendments. We believe it deserves more time and experience in implementation before judgments can be made on changing it. However, there are a few minor matters of timing and procedure that warrant

attention at this time when the authorizations are being extended. Unintended obstacles in the administration of the program, particularly to the States, are being caused. A brief summary of several of these needed amendments is set out at the end of my formal statement, which we have submitted for the Committee record.

Briefly, these amendments include:

1. Providing more time for the States to end their regulations to correspond with amended Federal regu-lations, thus ensuring continuity of grants support and primary enforcement responsibility;
2. Extending exemption compliance deadlines for the Interim Primary Regulations to the timeframe already established in the Act relative to the Revised Regulations, thus providing some systems, particularly the smaller ones, with sufficient time to solve their financial problems and improve their treatment facilities;
3. Adjusting the statutory deadline for prohibiting all unregulated injection practices in view of the delay in promulgating final regulations; and linking the eligibility of States to receive Underground Injection Control grants to the promulgation of final regulations, thus ensuring that they have grant support while seeking to achieve primary enforcement responsibility.

This concludes my prepared testimony. I will be happy to answer any questions the Committee may have.

Mr. WAXMAN. Thank you very much.

Dr. Carter?

Mr. CARTER. Thank you, Mr. Chairman.

I am concerned about some of the health risks which may be associated with the use of the granular activated carbon treatment. It has been suggested that chemicals trapped in the GAC filter may leach off in concentrated doses. It has also been suggested that certain dangerous chemicals may be formed in the regeneration process.

Furthermore, since GAC is produced from coal as well as wood, I am especially concerned that metallic contaminants from the coal may seep into public drinking water.

Could you comment on those concerns, especially in regard to whether the health benefits of granulated activated carbon significantly outweigh the risks?

Mr. JORLING. Yes, Dr. Carter.

I would like to respond. One of the concerns expressed during the comment period on our proposed regulations, was whether or not there were health risks associated with the use of GAC. Let me make a couple of points.

Mr. CARTER. Not just with carbon.

Mr. JORLING. With other elements of the technology.

Mr. CARTER. Granular activated carbon, coming from wood or coal.

Mr. JORLING. The treatment technique which we have chosen in the proposed regulations to reduce the level of organic contaminants in some drinking water system was raised during the period for public comment.

First of all, the use of granular activated carbon is not a new technology in the absolute sense. GAC is used very widely in Europe, and it has been used with great success in drinking water systems of a size equivalent to those we proposed to regulate.

Mr. CARTER. Is it used to purify the water or rather to improve the taste?

Mr. JORLING. They use it to improve the quality of the water, Dr. Carter. Taste problems, when analyzed chemically, are often associated with organic contamination.

Mr. CARTER. It is my understanding that in Germany and in many areas of Europe, it is used particularly to improve the taste of the water.

Mr. JORLING. As I mentioned, Doctor, one of the features that changes the taste of water is the presence of organic contaminants, but let me continue to respond.

GAC has been used very widely. It has not, however, been used in a large drinking water system in this country. It is, however, used in many beverage and food processing systems in this country.

The reason that Coca Cola produced in Florida tastes the same as a similar product produced in Seattle, Wash. is because of the use of carbon technology. So, it has been used in that sector with great success.

We have continued efforts to use various pilot and demonstration projects around the country.

With respect to your specific inquiries, it would take too long here to respond in detail. We will provide you with a copy of a

white paper that we had prepared pursuant to the regulatory process along with a listing of the pilot and demonstration projects we have around the country, devoted to the using of GAC.

I would also specifically note that the Agency has supported a demonstrated project in the community of Glen Cove, Long Island, N.Y., which has a similar problem to the one that was the subject of the previous testimony; namely, the groundwater was contaminated with trichloroethylene.

We are installing a system there which uses an aeration and resin absorption system in order to remove the organic chemicals of concern. Thus, you can see that we have focused some of our research efforts on small communities.

[This material can be found in the subcommittee files.]

Mr. CARTER. Is this a cost effective program?

Mr. JORLING. The purpose of that demonstration is to determine whether that particular one is cost effective for small communities.

Mr. CARTER. I mean not just regarding Glen Cove or one other area, but concerning the entire United States. Is it cost effective?

Mr. JORLING. Mr. Chairman, that is the basic decision we have to make in making final rules. We will be making those final rules in the late spring of this year. It would be premature for me to state with any definitiveness here our conclusion.

Mr. CARTER. I think it would be too. Is there a point at which we should stop allocating funds to a program which may not protect health as cost effectively as some other protective measures?

Mr. JORLING. If that question is specifically inferring that funds might be redirected from the Safe Drinking Water Act program, I would say——

Mr. CARTER. No, no. I am wondering whether we should consider another method instead of GAC, one which might be more effective.

Mr. JORLING. I think any cost effective method which reduces contaminants in vulnerable surface water supplies, regulated by our program can be used. It does not require GAC.

Now, let me give an example of that. If a community had a high level of contamination of one or a limited number of man-made organic chemicals which, under the prepared regulations would trigger the sequence of decisionmaking leading to the determination of whether GAC should be installed, that community could take several approaches. If that community could find the origin of that chemical and abate it, at the source, then they might avoid the GAC requirement.

That is one very cost effective method, and we do think that the communities are going to become a very strong and articulate lobby for strong environmental pollution controls.

Mr. CARTER. There may be other methods instead of GAC.

Mr. JORLING. And those are permitted under our regulation.

Mr. CARTER. Yes, sir, all right.

The law specifies that only technologies generally available on the date of enactment can be required under interim regulations. It has been argued that GAC was not generally available in a form suitable to its proposed use in 1974, and it is therefore illegal to mandate its use under interim regulations.

How do you respond to this allegation?

Mr. JORLING. Our final response will be the regulation promulgation itself. But as a preliminary matter, we think that both the proposed regulation and any final regulation with respect to GAC are consistent with the statute.

Mr. CARTER. There was a study—I believe $1 million was authorized and appropriated—to examine the health effects of the reaction of chlorine and humic acids which are in almost all the streams we have.

What is the result of that study?

Mr. JORLING. The final report from that study has not yet been reached within the agency. It is reaching conclusion, it is my understanding, this summer.

Mr. KIMM. We will have a report to the Congress this summer. One of the pieces feeding into that report is a study from the National Academy of Sciences.

Mr. CARTER. I thought that was supposed to have been back some time ago. This legislation went into effect in 1974?

Mr. KIMM. This study was added to the 1977 amendments.

Mr. CARTER. There has been some delay on that.

We also included $8 million in the 1977 amendments for such things as have happened in the New Jersey area. That money was not appropriated, as I understand. Since that time, however, we have found a plethora of occurrences such as the occurrence at Louisville, the Valley of the Drums.

Gentlemen, we know that these things are dangerous. What would you estimate would be the cost of abatement of the Valley of the Drums, and of other areas such as that throughout our country?

Mr. JORLING. We have a study, an order of magnitude study, which has been furnished to the Agency with respect to the problems of abandoned hazardous waste sites, and possible remedial costs associated with them.

That study has just been furnished to the agency. We have made it available to many other committees. We will make it available to you because it does have a cross-linkage to the Safe Drinking Water Act program.

It broke the cost down into two categories. The first category is to prevent the particular site from causing acute health or environmental problems. The second category of costs represents taking the same sites and bringing a permanent remedy to them.

The cost range for the first set of costs runs from $2.5 to $6 million. The costs for level II, or the complete permanent remedy, runs from $26 to $46 billion. That is an order of magnitude.

* * * * * * *

Mr. JORLING. With respect to the specific case that you have mentioned, the Valley of the Drums, I can assure you that this is an area on which we have spent a considerable amount of effort. EPA has now spent $250,000 on initial cleanup measures.

Mr. CARTER. We have the same thing in Louisville, Ky.

Mr. JORLING. In that area.

Mr. CARTER. Yes, sir, in that area. All right. I thank you for your testimony. Your estimate might even be low.

Mr. JORLING. I think that most of the professional people who have applied their judgment to the cost figures think if they do err, they do err on the side of conservatism.

Mr. CARTER. Thank you very kindly.

Mr. WAXMAN. Mr. Maguire?

Mr. MAGUIRE. Mr. Jorling, do you have any estimates on the frequency with which drinking water supplies are being contaminated by organic compounds, and have you observed any patterns in the location and/or causes of these incidents?

Mr. JORLING. Yes, Mr. Maguire. We have conducted several and are contining to conduct studies of many of the larger systems. I should qualify that by saying, the larger systems that draw their raw water from surface water supplies.

We will make both the summaries of those two major reports available to the committee, and further update them with more recent information.

* * * * * * *

Mr. JORLING. The studies disclosed that those municipalities whose drinking water supplies are drawn from the industrial river basins of the country are the ones which have the presence of the highest number and the greatest concentration of a wide range of synthetic organic chemicals.

For instance, at Cincinnati, which we have sampled repeatedly, partly because it happens to be the site of our major laboratory in this area, we have now identified in excess of 700 synthetic organic chemicals, some of which are known or suspected carcinogens.

So you do find a correlation, with the industrial drainages of the country; namely, the Ohio, Delaware, and Mississippi River basins, these are the principal areas where we see these problems.

Mr. MAGUIRE. You have listed a number of States which are going to be designated as requiring an underground injection control program. I see that industrial States like Michigan, Illinois, New York, Ohio, and Pennsylvania are included.

New Jersey is not included. Can you tell me why?

Mr. JORLING. Yes. The evolution of that selection process, again reveals the quick learning process that we have had with the underground injection program. The first candidates included primarily States associated with oil and gas production or deep underground injection of chemicals. Based upon our latest technical knowledge, we have reanalyzed our view on this matter, and we will be designating all the remaining States by mid-1980.

I should add that with respect to the designation process, the State of New Jersey originally came in I think 25th, on our ranking system. They were rated by practice, and they were 25th.

We expect that New Jersey will be designated this year, and will develop an underground injection program. I think it is the State's intention to do so. It certainly is ours.

Mr. MAGUIRE. Now, you have spent 2½ years reprocessing the underground injection control regulations. I am wondering how many more years you think it will take to actually complete the implementation.

Obviously whatever can be done to speed up the rulemaking process will be helpful because we are more vulnerable to problems like those of Mahwah if we don't rapidly complete this process.

Also, it would be more expensive to clean up later what we didn't succeed in preventing in the meantime.

Can you tell us about when you think we will be able to look back and say that we have implemented the regulations?

Mr. JORLING. I share your very explicit frustration. We have been too slow. There are a number of causes. Complexity of the practices to be regulated is certainly a cause for the delay in launching the underground injection program.

I believe that the Agency now has a program of rulemaking underway for the UIC program which will lead to final promulgation of the regulation within 8 months after proposal.

So, I think by the end of this calendar year the basic structure of the underground injection program will be in place.

I am tempted to say that one of the concerns that we all have is that under the guise of regulatory reform substantive results should not be delayed. Regulatory reform should lead to more expeditious ways of improving the quality of our regulations.

90-224 O - 80 - 14

It has not often operated that way, and it could cause delay. We feel all regulatory reform, including that included in the President's message over the weekend, has already been implemented by EPA, so we now feel we are on a track that is going to get us to the point which I have suggested.

But it hasn't been easy.

I think most environmental regulations—I won't go so far as to say all—are cost effective, when you look at the costs associated with repair of the damage due to contamination after the fact compared to what it would have cost to prevent the problem in the first place.

That is what we are trying to achieve. But we have been slow.

Mr. MAGUIRE. Now, given that you have been slow, I am interested that your three recommendations for amendments to the act, in your written testimony, are for delays of one sort or another, at least if I read them correctly:

One, providing more time for the States to amend their regulations.

Two, extending exemption compliance deadlines.

Three, adjusting the statutory deadline for prohibiting all unregulated injection practices.

In view of the delay in promulgating final regulations, how is that consistent with getting on with the job?

Mr. JORLING. I don't think what we are seeking are delays in compliance. They are changes in administrative time constraints to prevent a disruption in the State programs. Under the present formulas, if EPA changes its interim regulations or comes out with the underground injection proposal, the State's activities are tied to statutory actions which must often be modified by States to be compatible with Federal requirements.

So, what we are trying to allow is for the State to move into the program on a timely basis and not be hampered by the fact that they face unrealistic deadline from the time of promulgation of Federal rules to the time their State programs may need to be upgraded, resulting in interruptions in the flow of Federal grants to the States.

We are trying to prevent our delay from causing disruption at the State level. I don't think we are changing any of the substantive deadlines from the time of promulgation to the time of compliance by the affected regulated party.

Mr. KIMM. For example, our organics regulations were prepared as an addition to the existing interim regulations. Any State that didn't modify its regulations to be consistent with our changed regulations once finally promulgated, would lose its primary enforcement responsibility, and could conceivably, face a break in the flow of continuing Federal grant funds.

If you got into a situation where a State had a disruption in Federal funds, it could throw the program in that State into chaos. People might be laid off and the program significantly delayed. For example, many of the States that we are working with have requirements for State legislatures to conduct specific reviews of any modifications in the regulations. This can take significant time during which the State might lose eligibility for grants.

That particular amendment is designed to insure the flow of grants to continue the program though such a transition period will not cease and delay implementation.

Mr. MAGUIRE. All right. That is a helpful clarification.

You also say that you don't think any major amendments are needed. I wonder what you suggest with respect to small towns, of which there are a great many in the United States, of the sort that we heard from this morning. What do we do about Mahwah's problems?

Mr. JORLING. Mahwah's problem is fairly typical. Let me see if I can identify some of the elements that you and we have to deal with.

With respect to small communities, when we proposed the regulations on organics, we drew a cutoff on communities serving a population of 75,000 or greater. We did so for a number of reasons.

One was that communities above that size, generally have highly qualified and trained professional personnel running their systems. We were concerned that in smaller systems that kind of technical management capability does not exist.

So we drew that line in order to gain experience with the larger systems first—to apply it where we thought it could be applied, and not apply it where we need more time, more technology transfer and more professional training in the sophisticated moratorium and treatment changes needed to implement these proposed regulations.

Until our proposed regulations, no drinking water utility in this country routinely surveyed its water for the broad range of organic contaminants about which we are now concerned. We believe that the utilities still will not do so without Federal compulsion and technical assistance. It is a technology generally more complicated than typical water treatment and it is one that requires highly trained people.

We have exhausted much of the analytical capacity in this country with environmental regulation. If you take the air program, the Safe Drinking Water Act program, the Clean Water Act program, the hazardous waste program under RCRA, the capacity of Federal, State and private laboratories is exhausted.

We need to expand further in that area before we can apply the proposed organics regulations to smaller communities like the ones you have suggested in New Jersey.

Mr. MAGUIRE. Who should be liable, in your judgment, for the contamination problems that are found in towns like Mahwah?

Mr. JORLING. In any contamination problem where a party can be identified as being the cause, that party should be responsible as a matter of law, and as a matter of policy.

The problem is in identifying cause/effect relationships between a given effect and the multiple sources or causes that can exist.

One area which the committee may want to address in the future is our authority under the imminent and substantial hazard provisions of the Safe Drinking Water Act. They are very similar to the provisions of the Clean Water Act and Resource Recovery Act, which limit Federal intervention to cases where "imminent and substantial endangerment can be shown."

That is a very traditional common law test. It is also a very onerous one. The agency has brought three such actions—on which courts have ruled. Only one was successful. Two were not successful. They were not successful because the court could not conclude that there was a proximate cause between the defendant and the effect. The second element was that the approximate cause could not be shown to be an imminent and substantial endangerment at that time.

Mr. MAGUIRE. All right.

Mr. JORLING. That is an area that will need attention in the future.

Mr. MAGUIRE. This is precisely the question I proposed in my opening comments, whether imminent hazard needs to be redefined to mean that the hazard is imminent, even though the effect of the hazard might not be felt in the population for a number of years.

Would you agree with that?

Mr. JORLING. Yes, sir.

Mr. MAGUIRE. And will you work with us on trying to develop some language?

Mr. JORLING. We will be happy to do so. I know the Department of Justice is trying to develop alternatives to that.

Mr. MAGUIRE. I think that is an extremely important indication of the interest on your part, and I intend to pursue that with you.

There have been some suggestions in the press that between March of last year and December EPA engaged in a stepping-down operation with respect to what kind of testing you would be doing and the range of your responsibilities with respect to dumping of hazardous waste materials.

I wonder if you would comment on that, because I do think it is connected to the subject we are dealing with today.

Mr. JORLING. A third subcommittee of your full committee has taken a very hard look at the agency's performance in the hazardous waste program and will continue to do so.

Let me respond to you in general.

The agency under RCRA was to have promulgated and made effective the hazardous waste regulations by June of 1978. The Agency was not even successful in publishing a proposal for those regulations which would establish a national cradle-to-grave hazardous waste management program.

Last spring, I spent a considerable amount of time with this matter, reviewing the draft regulations that had been prepared within the agency. I made certain judgments as to the character of those draft regulations, and of the problems that they presented. The judgments I made at that time have led to some modifications of the regulations, leading finally to the publication, in proposed form, of those regulations in December of this year.

In the interim, several environmental groups, the State of Illinois, and others sued the agency for noncompliance with the statutory time deadlines. Following this action, the D.C. District Court issued an order, which took a proposed schedule that the Agency had submitted, evaluated our performance, and made the judgment that we were acting prudently. The court order required those regulations to be promulgated by December of this year. We have

prepared the regulation for comment and the courts' schedule will be met.

With respect to the characterization of my involvement in the regulatory process, it would not be useful for me to make self-serving statements. I think when the regulations are promulgated, they will stand on their own against the benchmark of the statute which is ultimately our test for environmental stringency. I think that they will be found by those who want stringent regulations as being good, effective regulations which will achieve effective control over hazardous waste. That is my objective.

Mr. MAGUIRE. You indicated that you felt that liability should lie with those parties that are responsible?

Mr. JORLING. Yes.

Mr. MAGUIRE. Now we heard in the earlier testimony how difficult it is to determine who the responsible parties are. The State has tested and tested and tested and surveyed and what-have-you, and the town, of course, doesn't have the abilty to do that. You have not been able to identify the culprit or culprits in the Mahwah case or many other cases.

In that kind of a situation, what should we do? Do we need to set up a fund to help pay the costs that these local towns incur in dealing with this public health threat? We can't just slip away from it because we can't identify the culprit and therefore, take no responsibility.

What is your response?

Mr. JORLING. Yes, we need a program which will generate resources. While it may not identify the specific sources associated with that, those sources should include those dealing with the chemical materials concerned.

Mr. MAGUIRE. So you would say all the industries in the area, whether or not you can prove this, committed a specific result.

Mr. JORLING. Or nationally. We expect to recommend to Congress by the middle of May of this year a program of legislation to create a fund to deal with abatement costs related to oil spills, chemical spills and abandoned hazardous waste sites.

The basic formula for that legislation will be a fee on those most closely associated with these materials. These fees would be used to create a fund from which disbursements to governmental entities could be made so that they could respond effectively to these types of problems where a financially responsible culprit could not be identified.

Mr. CARTER. Will the distinguished gentleman yield on that?

Mr. MAGUIRE. Yes.

Mr. CARTER. We included funds for this in the previous bill. As I said previously, they were not enough, and the Appropriations Committee did not see fit to include the $8 million which was authorized.

Mr. JORLING. The appropriating committees are under tremendous pressure to limit funding right now. I am somewhat sympathetic to the problem. There are many Members of Congress, many Senators, who have asked the Appropriations Committees to add on specific dollar amounts to accommodate problems in their jurisdictions.

Mr. CARTER. But we did see this coming.

Mr. JORLING. We believe that it is going to be very difficult to have an adequate response nationally, until there is a comprehensive scheme that draws resources not from the general taxpayer but from the people most closely associated with these harmful materials. We are committed to coming up with such legislation and working very closely with the various committees of Congress on both sides to assure that this matter can be addressed during this session of the Congress.

Mr. MAGUIRE. Does the gentleman wish me to yield further?

Mr. CARTER. No, sir, thank you.

Mr. MAGUIRE. I welcome that.

One final question, Mr. Jorling. You may have heard Mr. Hofman earlier, although he may not have specifically covered this in historical summary.

He says in his statement:

> The EPA should eliminate its policy of avoiding the formulation of a standard or guideline for a contaminant unless it also requires specific monitoring for this parameter through its regulations. This policy can result in situations where a contaminant may be discovered through means other than regular monitoring, as in the case, of Mahwah, and no criteria are available in assessing the real danger which it presents.

Do you agree with him?

Mr. JORLING. As I understand the basic thrust of that statement, I think I would answer by saying that is why we chose the treatment technology path in the organic area, and so we agree with it. When you set a maximum contaminant level, you must have a monitoring requirement associated with the standard to determine compliance. But in an area like organic contamination of drinking water supplies, where there are hundreds of chemicals potentially present, it would be very difficult, time consuming, and expensive for establishing a maximum contaminant level, for all those chemicals. This led EPA to prepare the treatment technique rather than maximum containment levels, and so we support Mr. Hoffman's comments.

With respect to perhaps another implication of that statement, we agree that there is a need of coordination between the Environmental Protection Agency at the Federal level and appropriate officials at the State and local levels in order to have affirmative knowledge and control over the movement of all chemicals that are synthetic to the natural environment.

We think we now have with respect to future activities—and I am confining this to future activity—with the Resources Recovery Act, the Toxic Substances Control Act, Safe Drinking Water Act, Clean Water Act, and Clean Air Act, the authorities to affirmatively achieve that kind of control over the movement of chemicals in the future.

We still have some very severe problems in dealing with past practices, some of which we have just been talking about, but it is our management task to bring these legislative authorities together through EPA and the States, in order to achieve affirmative control over these types of chemical substances. Only then will we be sure that the public is being adequately protected.

Mr. MAGUIRE. Thank you, Mr. Chairman.

Mr. WAXMAN. Thank you, Mr. Maguire.

Mr. Dannemeyer, do you have questions?

Mr. DANNEMEYER. Yes.

Earlier we had some witnesses this morning that told us that the EPA drafted a regulation which said that water which contains in excess of 10 parts per billion of trichloroethylene was contaminated and a danger to public health and should not be consumed by humans.

Mr. JORLING. Let me see if I describe——

Mr. DANNEMEYER. Is that a correct statement?

Mr. JORLING. It is not a correct statement. What we have here is the area of synthetic chemicals, synthetic here meaning foreign to the natural environment, foreign to biological systems that have evolved over 3 billion years. Since the Second World War there has been tremendous growth in the use of man-made chemicals which are now being released into the environment.

Mr. DANNEMEYER. Wait just a minute, sir.

How is what I said incorrect?

Mr. JORLING. If I may continue I will respond to your question. There are a wide range of chemicals, many thousands of chemicals, which have potentially adverse effects on man. Many health organizations, like the National Institutes of Health, the National Cancer Institute, and others, have been looking at these chemicals, chemical by chemical, and passing judgment on their long term effects. Many of them are known or suspected carcinogens based upon those studies. Trichloroethylene is one such substance.

When it comes to a situation like Mahwah, where public officials are put into the spot of making judgments as to whether or not a particular exposure represents a risk, and there has been no standard-setting activity on that particular chemical—they must then use good, professional judgment.

What happened in the situation that you have referred to was not a regulation, was not a standard, was not a definitive criteria. It was a judgment by health officials that above that level of exposure, that particular suspected carcinogen represented an adverse risk to the population exposed. Therefore, they recommended——

Mr. DANNEMEYER. Was the quantity that stated, that I got from those witnesses, correct; 10?

Mr. JORLING. I have no reason to judge or doubt that the professional health people, both in EPA and the State, used the 10 number. That is a very sound number.

Mr. DANNEMEYER. Where did they get the 10 figure?

Mr. JORLING. They got it by drawing on all of the information that is known about trichloroethylene and its carcinogenicity.

Mr. DANNEMEYER. Did the EPA produce that quantity?

Mr. JORLING. I am talking judgment. I am not talking about some empirical knowledge.

Mr. DANNEMEYER. It is a simple question. Did the EPA issue some type of a directive——

Mr. JORLING. A man sitting——

Mr. DANNEMEYER [continuing]. Suggesting that if a human being consumed water containing 10 parts of trichloroethylene it was a risk to his health?

Mr. JORLING. It represented the potential of an adverse risk that should not be borne.

Mr. DANNEMEYER. EPA did issue that kind of regulation?

Mr. JORLING. Again I can say that if an official of EPA said that, I would support him, because it is a prudent, professional judgment.

Mr. DANNEMEYER. Is there a question of fact as to whether or not the EPA has said that——

Mr. JORLING. No.

Mr. DANNEMEYER [continuing]. That 10 parts or more is a danger to human health?

Mr. JORLING. EPA is a collection of professionals, and when a professional is asked by a mayor and by a State what are the facts in this State, what is their judgment and——

Mr. DANNEMEYER. Do you work for EPA?

Mr. JORLING. Yes.

Mr. DANNEMEYER. Do you know if EPA has issued a regulation that if water contains 10 parts or more of trichloroethylene it makes it dangerous?

Mr. JORLING. It has not, as an institution, no, sir. It has perhaps done so through an individual working for the Agency who was responsible for acting in that situation.

Mr. DANNEMEYER. If you know, if someone has done it as an individual, who is that person?

Mr. JORLING. He is the individual that gets called on the carpet in a public meeting and has to say that in his judgment that figure represents a threat to public health.

Mr. DANNEMEYER. Do I understand you to say that the EPA as an official organization has not issued a regulation that 10 parts or more of trichloroethylene is harmful to human health in drinking water?

Mr. JORLING. As I said, we have not.

Mr. DANNEMEYER. Well, somebody got the impression in the State of New Jersey that the EPA issued that kind of a regulation, because the gentleman from New Jersey is shaking his head.

Mr. KIMM. Excuse me, Tom.

Mr. DANNEMEYER. You didn't say that?

Mr. HOFMAN. No, we said they did not issue a regulation or a guideline on that. We are in complete agreement with Mr. Jorling.

Mr. DANNEMEYER. You believe they didn't issue the guideline?

Mr. HOFMAN. Absolutely.

Mr. JORLING. We definitely need a guideline for the several thousand chemicals.

Mr. DANNEMEYER. If they didn't issue the guideline, why did you indicate to those folks of Mahwah that there was some problem?

Mr. JORLING. Again it is professional health judgment that that level represents an adverse risk—judgment by experts in the field. We don't have the guideline. We don't have the regulation, because we don't have the knowledge to do that for all of the chemicals of risk.

Mr. DANNEMEYER. You mean these people in Mahwah went through the psychological torment of thinking they were drinking contaminated water, based on——

Mr. JORLING. Just a moment.

Mr. DANNEMEYER [continuing]. Obviously, well-intentioned judgment speculation——

Mr. JORLING. No. Trichloroethylene——

Mr. DANNEMEYER [continuing]. Speculation on the part of somebody occupying a position——

Mr. JORLING. You are mischaracterizing the words, if I may say so respectfully.

Mr. DANNEMEYER. Wait a minute. Let's start with one premise. We are a government of men, rather a government of laws, not men, and we should expect from those issuing laws or regulations that they base them on some authority.

Mr. JORLING. The agency was in an advisory capacity in this situation. It did not set a rule. It sat in an advisory capacity concluding that trichloroethylene was a suspected carcinogen, that prudence dictated in this situation that consumption of levels greater than 10 parts per billion was an adverse health risk. The State of New Jersey took that advice. Its health department gave the same advice, and they issued that to this community.

Mr. DANNEMEYER. On what evidence do you base your contention that water containing that quantity of trichloroethylene is harmful to human health?

Mr. JORLING. The National Academy of Scie ces' summary and conclusions based on many other studies on as to that particular chemical coumpound's carcinogencity.

Mr. DANNEMEYER. Is there evidence in our population group or any population group that has been studied that water containing that quantity presents a hazard to health?

Mr. JORLING. There are so many routes of exposure to so many synthetic organic carcinogens that epidemiological work in this particular community would be inconclusive. The public health policy codified in the Safe Drinking Water Act is that we are to prevent risk to public health. We do not wait for the "smoking gun," to use an analogy, and then regulate. We try and prevent exposure to these known chemical carcinogens. That is what we are doing in this case. We are trying to prevent public health exposure, not wait until we have an empirical "smoking gun" before we act.

Mr. DANNEMEYER. Do you have any idea how long that compound has been in water?

Mr. JORLING. It has been in water probably since its first formulation around the country, and we used, as a general measure, the end of the Second World War for the onslaught of synthetic organic chemicals.

Mr. DANNEMEYER. If I may, Mr. Chairman, I have another question.

Why does EPA's most recent draft of injection control regulations include in its definition of underground drinking water sources water which contains up to 20 times as much dissolved solids as EPA allows for the secondary maximum contaminant level for public waters?

Mr. JORLING. I am going to ask Vic to respond. That is a problem especially associated with western aquifers that are very highly salt-laden.

Mr. KIMM. The legislative intent of that part of the Safe Drinking Water Act, as explained in some detail in the House report that accompanied the bill, was to protect all present and future sources of ground water, and the suggestion was that we should protect ground water levels of up to 10,000 parts per million of total dissolved solids. At the time the act was being discussed in 1974, that level was associated with the upper limits of water you could desalinate. In other words, that portion of the act was to be protective, and so we are trying to protect ground waters that are higher in total dissolved solids than would normally be used at this time.

Mr. DANNEMEYER. How soon will your consolidated procedural regulations for your three major permit programs be issued as proposed regulations?

Mr. JORLING. They should be out by the end of April.

Mr. DANNEMEYER. What problems do you envision by the control of offshore injection wells?

Mr. JORLING. Offshore chemical injection wells or offshore oil brine injection?

Mr. DANNEMEYER. The latter.

Mr. JORLING. The latter? I think, first of all, the authority of the Safe Drinking Water Act only extends to the 3-mile area. We may have a General Counsel's opinion that says that we can apply it on the authority that is associated with the Outer Continental Shelf of Lands Act, but we do not expect that there will be any discriminatory effect between the onshore and offshore drilling activity.

Mr. DANNEMEYER. Thank you, Mr. Chairman.

Mr. WAXMAN. Mr. Preyer, do you have questions?

Mr. PREYER. I am sorry, I missed some of the direct testimony and questioning. I don't want to repeat questions.

The general impression I got about the Safe Drinking Water Act is that it has been a good act except for a couple of problem areas, and the one that most people focus on is the granulated activated carbon situation.

Have we gone into that in questioning?

Mr. WAXMAN. Somewhat, yes.

Mr. JORLING. We have touched on that some, Mr. Preyer.

Mr. PREYER. I don't want to go over all of that again at this time. I will read the record over. I will yield my time to Mr. Gramm, who has been patiently sitting through all of this testimony.

Mr. GRAMM. Thank you, Mr. Preyer.

I would like to start with a general question. Then I would like to get down to specifics as they relate to a release on September 5th by the Council on Wage and Price Stability with relation to your proposals.

One of the concerns I have always had about environmental protection is a concern that many of those who are engaged in protecting the environment, and God knows everybody who is alive benefits from it to some extent, don't take into account the costs that are involved. I would assert that it is becoming increasingly obvious to the American people that we do not have a check to give those who are engaged in protecting the environment, and that what we have got to do is to assure two things: No. 1, that the

benefits that are being yielded to the general public exceed the cost of any program; and,

No. 2, that we spend our money in those areas where the benefits are maximum.

I would like to begin on the basis of those assertions to ask you, No. 1, do you believe that the expenditures that will be required as a result of these regulations offset the cost involved?

Mr. JORLING. Yes, sir. The costs, according to our estimates for those that would be affected by protecting their drinking water supply, is less than the cost of taking a family of four to the movies once a month. We think that that is certainly a good insurance policy, to protect the number of people who are exposed to these risks.

Mr. GRAMM. Wait a moment, I don't know what going to the movies has to do with benefits you get from having water that is purified.

Has there been any analysis of the impact of improved health as a result of pure water on morbidity, or mortality or labor force participation or labor productivity?

Mr. JORLING. There are all kinds of studies that go on with respect to minimizing risks to exposure to carcinogens, and it is very difficult to sort out which pathway of risk is the one that causes problems.

With carcinogens, it appears that the collection of exposures are the operative problems. But with respect to the specific GAC regulations that we propose, the cost estimates that we have, depending upon the size of the system, the contact time, and the site specific requirements, range from $5.40 per year to $26 per year. We think, given the population at risk, that that is a very prudent expenditure.

Mr. GRAMM. But you really don't have any estimate of the value of benefits?

Mr. JORLING. We, first of all, are not charged to put a value on human life under these statutes, so that we do not, nor are we charged to experiment directly with these contaminants on human systems, so we have to use both indirect evidence, both epidemiological and animal testing. Based upon that, we have concluded that these types of chemicals represent a serious risk, that with easily available technology at relatively low cost, we can prevent that exposure. That is what we think the mandate of the Safe Drinking Water Act is, and we think we are in full compliance with it.

Mr. KIMM. Incidentally, the Council of Wage and Price Stability's suggestion was not that we come up with the numerical benefits, but that we try to look at the cost per life or death avoided by the regulations for alternative regulatory approaches. The heart of the difficulty there, which at that point I don't think they fully understood, is the uncertainties around the magnitude of adverse health effect avoided. In the case of lowering environmental exposure to carcinogens and thereby avoiding cancer fatalities, there are great uncertainties within such projections which can vary the impacts by a factor of 10 or 100. Depending on how one chooses to manipulate those figures, one can show that the cost per life saved

is either very large or very small. In an absolute sense, we don't think that is an analysis that is worth doing.

In a relative sense, it is possible to array alternatives and see what is the most effective way of getting reductions in exposure, and in fact those analyses were performed, as we put together the proposed regulation. This will be one of the things we will be analyzing more fully in the final regulation.

Mr. JORLING. Let me just speak a little bit about some of the economic impacts.

One of the fastest growth areas in our society is in the purchase of drinking water protective systems by individual homeowners and in the sales of bottled water because of the public's perception that their water may not be safe. Both of these industries are roughly at $200 million a year, and they are growing at a rate of 12 percent per year.

With respect to what we propose, it is a much more cost effective way of protecting the public's water supply than continually to drive them into these systems which cost a great deal per capita, provide protection for only those who can afford them and are of uncertain effectiveness. We think that the government has a duty to provide safe drinking water. It is an involuntary exposure to the people. That is what we are attempting to do, and it is the kind of mandate that the Safe Drinking Water Act has given us.

Mr. GRAMM. Let me ask you a second question.

To what extent does EPA engage in any kind of analysis of the benefits of expenditure in a specific area relative to benefits of expenditures in another area, given that we have a limited budget that we are going to spend on health?

I am not talking about just government's expenditures. I am talking about the cost of these regulations as they are imposed on society.

To what extent are we setting a priority to get our maximum favorable impact per dollar spent?

Mr. JORLING. It is very hard to answer that, because statutes come along and mandate us to do one or another task at different times against different standards and against different criteria. We attempt to take these statutes and implement them as effectively as we can, given resource constraints but we do attempt to make analyses of the cost of the particular implementing action that we take.

We try and analyze different ways of achieving those objectives mandated by statute.

It is very difficult to sit back at any particular time and make a comprehensive analysis of the actual cost and comparative cost from all of our activities, simply because Congress expects us to act on various legislative pieces. I have been criticized here for not acting on several of our regulations already, but we must act, and we do it as cost-effectively as we can.

The amount of economic analysis that accompanies environmental regulations is very high. It is higher than any other regulatory effort in the Federal Government. I have more economists working for me than I do public health people, so that you can see how deeply embedded economic analysis is in our rulemaking process.

With respect to the best answers to your general question, all studies which have been made of the macroeconomic impacts of all environmental and public health regulations indicate that it is very, very small. As a matter of fact they may not be inflationary at all, because it appears that the benefits do outweigh the costs, and therefore by definition, the effects are not inflationary.

We do analysis. I welcome anyone's scrutiny of the degree and intensity of the analysis that accompanies all of our regulations, both economically and technically, and we will stand by them when we promulgate regulations I think our success over the last couple of years in the court review of our actions show that we are doing a good job. We are doing such a good job that now all Federal agencies are going to be subject to the same procedures we follow as part of the Executive order the President has issued, and asked Congress to codify with his message yesterday.

Mr. GRAMM. Let me just ask you some additional, brief questions, and these are points that are brought out in the Council on Wage and Price Stability release concerning your proposals. It came up in earlier discussions why we chose the 75,000 population, and as I remember, you said that at that level generally there is one person with some degree of expertise on the staff already.

Mr. JORLING. We think that the quality of management in larger utilities is such that they can manage change in the delivery system without jeopardizing other health risks such as pathogens that are associated with the drinking water system.

Mr. GRAMM. To what extent did you look at alternative population cutoffs in terms of costs and benefits?

Mr. JORLING. We did look. We will provide more detail for the answer. One of the major concerns was that our economic data was highest in its accuracy for the larger system. It was least accurate in the lower systems because of the technology involved and the volumes of water involved. We also made the judgment based upon the fact that, on a national basis, smaller communities can choose alternative water supply systems much easier than larger systems. Ground water alternatives to surface sources are available in many smaller communities. A size phasing also applies where new applications of technology are more easily managed in large systems than small systems. I think it is a defensible phasing strategy.

Mr. GRAMM. I could go through this whole list, Mr. Chairman, but my time has expired.

Mr. JORLING. We can, Mr. Gramm, provide you with our comments which went back to COWPS on these regulations.

Mr. GRAMM. That would be very helpful to me.

Mr. KIMM. Just one point. The particular comments that I think you are referring to in the Council's comments suggested that it might be more cost effective to have a tighter standard for fewer and larger systems. That included some misunderstanding of the application of technology which they have gone back and reviewed. In our latest exchange with them, COWPS concluded that what they originally suggested was incorrect, and that our proposal was more cost effective than their suggested alternative. We will be happy to provide that detail for the record.

[Testimony resumes on p. 195.]

[The following letter was received for the record:]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 6 1978

OFFICE OF WATER AND
HAZARDOUS MATERIALS

Mr. Barry Bosworth
Director, Council on Wage
and Price Stability
726 Jackson Place, N.W.
Washington, D.C. 20506

Dear Barry:

The Environmental Protection Agency (EPA) has reviewed your comments and staff analysis of September 1, 1978, concerning our proposed regulations to limit organic contaminants in drinking water.

I was pleased to note that the text of your comments did not say that the benefits of the proposed regulations did not justify the costs or that its impact would be inflationary. Your major recommendation that EPA conduct additional analysis of alternative approaches is reasonable although we have major questions about the accuracy of the supporting analysis. Unfortunately, the press did not report your comments accurately and I believe that this unfortunate situation could have been avoided if prior consultation between EPA and CWPS staffs had taken place.

The analytical methodology employed in CWPS' analysis, assessing the cost per cancer fatality avoided for alternative regulatory approaches, is straightforward and familiar. However, the uncertainties associated with projecting changes in human cancer incidence from animal feeding studies is the major reason why such calculations have not been used by regulatory agencies. In fact, as we discuss below, uncertainties about the precise magnitude of benefits make any fine-grained comparisons of alternatives as suggested in your comments almost meaningless.

While a more detailed review of your comments is enclosed, I would like to summarize a number of major concerns we have with the CWPS' comments.

1. The analysis of benefits prepared by your staff looked only at the cancer deaths avoided due to reductions in chloroform concentrations imposed by the proposed standards. This considerably underestimates the benefits since we propose to regulate a group of compounds (trihalomethanes), of which chloroform is only one member, and the THM group represents only about 20 percent of the total halogenated organic material created as a by-product of disinfection with chlorine. Thus, your calculations of the cost per life saved appears to be overstated.

2. With respect to your major finding that it may be more cost-effective in terms of dollars per life saved to use a tighter THM standard covering a smaller number of larger systems--your analysis appears incorrect. As discussed in the attachment, the anticipated treatment changes to be employed by systems exceeding any proposed MCL will result in average human exposures below the standard. This information was given to your staff early in the process but was not used.

3. The issue of internal consistency raised in your comments concerning the cost per life saved for the two parts of the regulation also raises a number of questions. Your analysis suggests that for consistency to exist, the synthetic organic contaminants would have to be about 33 times more potent carcinogens than chloroform which seems to be rejected as counter-intuitive. Such comments seem to demonstrate a lack of understanding of the uncertainties associated with extrapolation of human carcinogenic potency from standard animal testing studies. For example, differences of 100-fold can be projected for chloroform potency in humans depending on the animal data entered into the extrapolation, and differences by factors up to 1,000,000 exist between the potency of chemicals shown to be carcinogenic in animal studies of record. In addition, the potential synergistic effects on health of mixtures of carcinogens is beyond our current scientific capacity to measure.

4. In addition, your comments include a number of unsupported negative comments on the proposed regulations similar to those we have heard from numerous industry spokesmen. Do you have additional supportive information to fill out our record concerning the availability of GAC technology, potential hazards of its use or whether additional pilot studies are needed before GAC treatment could be mandated?

EPA is now assessing the lengthy record resulting from public hearings and comments on these proposed regulations. All of the major issues addressed including those raised by CWPS will be answered as we move toward the formulation of final regulations in this area. We will appreciate more dialogue with CWPS staff to ensure that we adequately understand and address the issues raised in your comments. I have asked Victor J. Kimm, Deputy Assistant Administrator for Drinking Water (202) 426-8847 to serve as EPA's contact point.

Sincerely yours,

Thomas C. Jorling
Assistant Administrator
for Water and Waste Management

Enclosure

November 6, 1978

REVIEW OF
COUNCIL ON WAGE AND PRICE STABILITY COMMENTS

This review discusses four technical issues raised in the September 1, 1978, Council on Wage and Price Stability evaluation of the Environmental Protection Agency's proposed drinking water regulations. The evaluation consists of two parts, comments from B.P. Bosworth, Director of the Council, and an analysis prepared I.E. Broder, a staff economist. This review discusses a number of assumptions used to develop the CWPS comments which we believe to be inappropriate. The resultant impact of corrections in the assumptions result in dramatic changes in the conclusions presented by CWPS.

1. Assumption - The risk factor used by CWPS in its analsyis is 2 x 10E-7, and is described as the NAS' best probable estimate.

However, the report from which this number is drawn indicates in the preceding paragraphs: "Considerably more research is needed both on the empirical study of carcinogenisis dose response differences in various species and the pharmacokinetic study of species scale up to man for model compounds. Without these studies, it is not really possible to say whether the extrapolation of cancer risk is likely to be correct within an order of magnitude." (Non-fluorinated Halomethanes in the Environment, NRC, 1978).

Therefore, an appropriate risk factor would be the 95% confidence interval surrounding the point estimate. This

interval is 0.4 - 10.0 x 10E-7.

Effect on Technical Analysis - Using the formula presented on page 15 of the CWPS report, the range for the annual number of cancer cases avoided associated with a THM standard of 100 ug/l applied to cities of 75,000 or greater is 5.61 - 140.39 deaths per year avoided. In addition, this range would alter the magnitude of the cost per life saved considerably. The range of risks associated with the alternative regulatory approaches considered by CWPS is 11.92 cases. This range is less than one-third of the standard deviation associated with the point estimate of risk used by CWPS. Under any criteria, the variability in the risk estimate is too large to allow differentiation between the alternatives considered, on the basis of risk.

Impact on Conclusions - The first conclusion of the CWPS comments is that the economic impact analysis of the proposed regulations is inadequate, and that use of the approach outlined in the CWPS report would be appropriate. As the preceding section indicates, the suggested analytical procedure is too sensitive for the data upon which it must depend. Consequently, any information provided by such an analysis is extremely suspect. The conclusion is equally suspect, on the basis of the argument against use of the suggested analytical procedure in this instance.

2. Assumption - The CWPS staff assumed that exposure to THMs would be reduced to exactly the level of whatever

standard is applied. That is to say, if the standard were 100 ug/l, exposure would be 100 ug/l. The background material provided to CWPS indicated that the technologies which would be applied to comply with a standard of 100 ug/l would actually reduce exposure to an average of 33 ug/l. Similarly, a standard of 50 ug/l would result in exposures of about 27 ug/l.

Effect on Technical Analysis - The effect of this change of assumption is indicated in the two tables below:

ANNUAL CASES OF CANCER AVOIDED

Population		100 ug/l	50 ug/l
75,000	(CWPS estimate)	16.6	27.9
	(Correct estimate)	28.1	29.1
100,000	(CWPS estimate)	15.9	22.2*
	(Correct estimate)	24.5	25.4

*Using CWPS assumptions

CAPITAL COSTS OF ALTERNATIVES

Population		100 ug/l	50 ug/l
75,000	Total annual costs	$64.6 M	$111.6
	Annual cost/case avoided		
	CWPS	3.9	4.0
	EPA	2.3	3.8
100,000	Total annual costs	57.02	98.5
	Annual cost/case avoided		
	CWPS	3.6	4.4
	EPA	2.3	3.8

The major importance of this data is the change in deaths avoided under the varying alternatives. This directly affects the analysis of incremental costs. The CWPS comments claim

that extending the 100 ug/l standard from cities of greater than 100,000 population to cities of greater than 75,000 population would require an incremental cost of $12.2 million per cancer case avoided. CWPS suggests that this is not cost-efficient since the report estimates an incremental cost of only $6.3 million per case avoided were a standard of 50 ug/l applied. Note: a calculation error resulted in a wrong figure of $6.3 million. The correct figure should be $4.2 million per case avoided.

When the appropriate exposure assumptions are used, the incremental cost of extending coverage is not $12.2 million, but $2.1 million per case avoided. And, the incremental cost of decreasing the standard to 50 ug/l is not either $6.3 or $4.2 million, but $47.0 million per case avoided.

Impact on Conclusions - The second conclusion of the CWPS comments is: "These preliminary calculations suggest that more lives could be saved with no increase in costs by tightening up on the performance standard for THM (i.e., lowering the allowable concentration below 100 ug/l) and concomitantly relaxing the coverage (to exempt communities with populations between 75,000 and 100,000).

As has been shown in the preceding section, this conclusion is entirely in error. The incremental costs indicate the proposed regulation is the most economically efficient of those alternatives considered. Further, fewer

lives would be saved at a greater total annual cost if EPA chose to change from its proposed regulation to one involving a 50 ug/l standard covering only cities of 100,000 population or greater.

3. Assumption - Another assumption made was that the risk associated with synthetic organic chemicals which would be controlled by GAC is not likely to be much higher than the risks associated with THMs. However, while the CWPS report presumed synthetic organic chemicals would be present in concentrations of about 10 ug/l, actual concentrations vary greatly but data on carbon adsorbable chemicals (by the CCE procedure) up to 120 times higher than the above level are not unusual for vulnerable water supplies. Furthermore, the relative potency of these chemicals can vary by factors up to 1,000,000.

Effect on Technical Analysis - The CWPS comments state that "The two standards are consistent with one another only if the average risk level of the 129 organic chemicals that the GAC treatment facility is designed to control is 33 times higher than the risk level for the chemical (THM) controlled by the performance standard." Since it is entirely credible that such risks are likely to exist, it is also credible to expect the cost-effectiveness of the GAC design standard and the THM performance standard to be relatively close.

Impact on Conclusions - The immediate result of the preceding section is that the proposed regulation is

internally consistent. This is the opposite of the conclusion reached by CWPS.

4. A final technical issue, which does not fit the format used heretofore, involves a number of unsubstantiated statements suggesting that EPA has not conducted sufficient analysis in several areas. More information would be appreciated concerning the following comments.

Issues raised on page 20 of the analysis:

- o whether excessive bacteria growth can occur on GAC
- o whether certain toxic substances are created when GAC is used
- o whether turbidity is effectively controlled by GAC
- o whether heavy metals or polynuclear aromatic hydrocarbons leach from virgin GAC
- o whether materials desorb from GAC
- o whether GAC causes air or water pollution

Issues raised on pages 3 and 4 of the comments:

- o how monitoring could replace the protection offered by GAC
- o examples of more explicit criteria to be used for granting exemptions to the design requirements
- o the utility of further experimentation with pilot projects
- o examples of cost-effectiveness studies from similar health related programs of other agencies

EPA, having concluded that cost-effectiveness analysis is not without merit, would be interested in improving coordination of CWPS reviews, especially in light of the analysis discussed herein. Dialogue on the specific points raised in the paper is encouraged, and Victor J. Kimm, Deputy Assistant Administrator for Drinking Water (202) 426-8847 will serve as EPA's contact point.

Mr. MAGUIRE [presiding]. Thank you.
Are there any more questions?
Thank you, Mr. Jorling.
Mr. JORLING. Thank you.
[The following correspondence was received for the record:]

SUBCOMMITTEES
ENERGY AND POWER
HEALTH AND THE ENVIRONMENT
JUDICIARY
SUBCOMMITTEES
CRIMINAL JUSTICE
IMMIGRATION, REFUGEES AND INTERNATIONAL LAW
VETERANS' AFFAIRS
SUBCOMMITTEE
MEDICAL FACILITIES AND BENEFITS

Congress of the United States
House of Representatives
Washington, D.C. 20515

DISTRICT OFFICES:
FEDERAL BUILDING
TUSCALOOSA, ALABAMA 35401
AREA CODE 205, 752-3578
COURT HOUSE
BESSEMER, ALABAMA 35020
AREA CODE 205, 425-8831
FEDERAL BUILDING
SELMA, ALABAMA 36701
AREA CODE 205, 872-2664

March 29, 1979

Mr. Thomas C. Jorling
Assistant Administrator for
Water and Waste Management
Environmental Protection Agency
401 M Street, S.W.
Suite 1035 East Tower
Washington, D.C. 20460

Dear Mr. Jorling:

As a member of the Interstate and Foreign Commerce Committee's Subcommittee on Health and the Environment, I deeply regretted having to miss your testimony before the Committee on Monday, March 26, regarding the reauthorization of the Environmental Protection Agency's safe drinking water program. I have read your prepared testimony and found it most helpful. However, I do have some questions that were not resolved in your testimony, and I would appreciate it if you would address yourself to them at this point.

Last year when EPA testified concerning the Safe Drinking Water Act, you reported that EPA was considering amendments to the public notice requirement to make them more flexible.

- o What problems have been experienced with the public notice requirement that prompted this proposal?
- o Has EPA drafted any language to effectuate these changes?
- o Does EPA contemplate seeking any other changes in the Safe Drinking Water Act?

I am submitting these questions also to Mr. Waxman, Chairman of the Subcommittee, in order for them to be added to the record of the hearings on the Safe Drinking Water Act, and I will also request that your responses be included in the record.

I certainly appreciate your cooperation before the Subcommittee and look forward to working with you and your agency on this and other matters.

Sincerely,

Richard Shelby

Richard Shelby

RCS:vlm

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 26 1979

OFFICE OF WATER AND
HAZARDOUS MATERIALS

Honorable Richard Shelby
House of Representatives
Washington, D.C. 20515

Dear Mr. Shelby:

This is in response to your letter of March 29, 1979, regarding my testimony before the House Interstate and Foreign Commerce Committee's Subcommittee on Health and the Environment, on this Agency's safe drinking water program. I would like to take this opportunity to clarify the record concerning the public notification requirements under the Safe Drinking Water Act.

In my testimony last year, I indicated the Agency's desire to amend the Act to provide the Administrator with greater flexibility with respect to public notification requirements applicable to public water supplies. We recognized that, in some cases, a rigid application of the provision requiring suppliers to notify the communications media in addition to individual consumers might lead to unnecessary expense and administrative burdens on the part of the suppliers without furthering the information function which public notification was designed to serve. Media publication of situations where a minor operating problem had since been promptly corrected and was not likely to recur or where analytical results indicating a violation was shown to be unreliable might be counterproductive.

Our original intention was to propose a statutory amendment to Section 1414(c) of the Act to authorize the Administrator to waive media notification on a case-by-case basis upon a satisfactory showing by the water supplier that the violation triggering notification had been corrected promptly after discovery, that the violation was not likely to recur, and that the violation had not posed an unreasonable risk to public health. The requirement that consumers be notified of violations through their water bills or by direct mail would remain intact.

Based upon a closer examination of the Act, we believe that Section 1414(c) provides EPA with sufficient flexibility to modify the public notification requirements by a regulation change. We will therefore be proposing amendments to the National Interim Primary Drinking Water Regulations (40 CFR Part 141) to effectuate this change in the near future.

With regard to other legislative amendments, EPA has decided not to pursue any changes to the Act at this time. The additional experience that will be gained through implementation of the Act's current requirements will provide a sounder basis for amendments in the future should they still prove necessary.

Sincerely yours,

Thomas C. Jorling
Assistant Administrator
for Water and Waste Management

cc: Honorable Henry Waxman

CHAPTER IV

PUBLIC LAW 95-190 (AMENDMENTS TO THE SAFE DRINKING WATER ACT); S. 1528, AS REPORTED, MAY 16, 1977; SENATE REPORT (95-190); SENATE DEBATE: NOVEMBER 1, AUGUST 5, MAY 24, 1977; H.R. 6827, AS REPORTED, MAY 16, 1977; HOUSE REPORT (95-338); HOUSE DEBATE: NOVEMBER 1, JULY 12, 1977; ADMINISTRATION TESTIMONY AT HOUSE HEARING: APRIL 22, 1977

Public Law 95-190
95th Congress

An Act

To amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water systems.

Nov. 16, 1977
[S. 1528]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safe Drinking Water Amendments of 1977.
42 USC 201 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Amendments of 1977".

AUTHORIZATION OF APPROPRIATIONS

42 USC 300j-1.

SEC. 2. (a) Section 1442(c) of the Public Health Service Act is amended by inserting "other than subsection (a)(2)(B) and provisions relating to research" after "section"; by striking out "and"; and by striking out the period at the end thereof and substituting "; and $17,000,000 for each of the fiscal years 1978 and 1979. There are authorized to be appropriated to carry out subsection (a)(2)(B) $8,000,000 for each of the fiscal years 1978 and 1979.".

Grants for State programs.
42 USC 300j-2.

(b) Section 1443(a)(5) of such Act is amended by striking out "and" and by inserting before the period at the end thereof: ", $35,000,000 for fiscal year 1978, and $45,000,000 for fiscal year 1979".

(c) Section 1443(b)(5) of such Act is amended by striking out "and", and by inserting before the period at the end thereof: ", and $10,000,000 for each of the fiscal years 1978 and 1979".

Rural water survey.
42 USC 300f note.

(d) Section 3(c) of the Safe Drinking Water Act is amended by striking out "and" and by inserting "; and $1,000,000 for each of fiscal years 1978 and 1979" after "1977".

42 USC 300f note.

(e) Nothing in this Act shall be construed to authorize the appropriation of any amount for research under title XIV of the Public Health Service Act (relating to safe drinking water).

42 USC 300f.

STUDIES

42 USC 300j-1.

SEC. 3. (a) Section 1442(a)(3) of the Public Health Service Act is amended by inserting "(A)" after "(3)" and by adding the following at the end thereof:

Report to Congress.

"(B) Not later than eighteen months after the date of enactment of this subparagraph, the Administrator shall submit a report to Congress which identifies and analyzes—

"(i) the anticipated costs of compliance with interim and revised national primary drinking water regulations and the anticipated costs to States and units of local governments in implementing such regulations;

"(ii) alternative methods of (including alternative treatment techniques for) compliance with such regulations;

"(iii) methods of paying the costs of compliance by public water systems with national primary drinking water regulations, including user charges, State or local taxes or subsidies, Federal grants (including planning or construction grants, or both), loans,

and loan guarantees, and other methods of assisting in paying the costs of such compliance;

"(iv) the advantages and disadvantages of each of the methods referred to in clauses (ii) and (iii);

"(v) the sources of revenue presently available (and projected to be available) to public water systems to meet current and future expenses; and

"(vi) the costs of drinking water paid by residential and industrial consumers in a sample of large, medium, and small public water systems and of individually owned wells, and the reasons for any differences in such costs.

The report required by this subparagraph shall identify and analyze the items required in clauses (i) through (v) separately with respect to public water systems serving small communities. The report required by this subparagraph shall include such recommendations as the Administrator deems appropriate.".

Recommendations.

Report to Congress.
42 USC 300j-1.

(b) Section 1442 of such Act is amended by redesignating subsection (c) as (e) and by inserting the following new subsection after subsection (b):

"(c) Not later than eighteen months after the date of enactment of this subsection, the Administrator shall submit a report to Congress on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data compiled by the National Water Commission and others shall be utilized to the extent possible.".

42 USC 300g-1.

(c) Section 1412(e)(2) of such Act is amended by inserting before the period at the end of the first sentence thereof the following: ", and revisions thereof reflecting new information which has become available since the most recent previous report shall be reported to the Congress each two years thereafter".

42 USC 300f note.

(d) Section 3(b) of the Safe Drinking Water Act is amended by striking out "for transmittal" and inserting "and" in lieu thereof.

Ante, p. 1393.

(e)(1) Section 1442(a) of such Act is amended by adding the following new paragraphs at the end thereof:

Contaminants, studies.

"(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

"(11) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.".

Grants.

42 USC 300f note.
42 USC 300f.

(2) Nothing in this Act shall be construed to alter or affect the Administrator's authority or duty under title 14 of the Public Health Service Act to promulgate regulations or take other action with respect to any contaminant.

TRAINING

SEC. 4. Section 1442 of the Public Health Service Act, as amended by section 3(b) of this Act, is further amended by inserting the following new subsection after subsection (c): Grants. *Ante*, p. 1394.

"(d) The Administrator shall—

"(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies or units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

"(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

Reasonable fees may be charged for training provided under paragraph (1)(B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.". Fees.

GRANTS FOR STATE PROGRAMS

SEC. 5. (a) Section 1443(a) of the Public Health Service Act is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraphs: Prohibition, waiver. *Ante*, p. 1393.

"(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

"(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

"(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

"(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under this paragraph may not exceed 75 per centum of the allotment which the State would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of fiscal year 1980. At the beginning of each fiscal years 1979 and 1980 the amounts retained by the Administrator for any preceding fiscal year and not awarded by the beginning of fiscal year 1979 or 1980 to the States to which such amounts were originally allotted may be removed from the original allotment and reallotted for fiscal year 1979 or 1980 (as the case may be) to States which have assumed primary enforcement responsibility by the beginning of such fiscal year. Allotment limitations.

"(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section— Applications, notification to States.

"(A) within ninety days after receipt of such application, or

"(B) not later than the first day of the fiscal year for which the grant application is made,

whichever is later.".

EXTENSION OF DEADLINE FOR STATE UNDERGROUND INJECTION CONTROL PROGRAMS

42 USC 300h-1.

SEC. 6. (a) Section 1422(b)(1)(A) of the Public Health Service Act is amended by inserting the following new sentence at the end thereof: "The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.".

Regulations.
42 USC 300h.

(b) Section 1421(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(3)(A) The regulations of the Administrator under this section shall permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State.

"(B)(i) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number or States.

"(ii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed to disrupt a State underground injection control program only if it would be infeasible to comply with both such regulation and the State underground injection control program.

"(iii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed unnecessary only if, without such regulation, underground sources of drinking water will not be endangered by any underground injection.

"(C) Nothing in this section shall be construed to alter or affect the duty to assure that underground sources of drinking water will not be endangered by any underground injection.".

EXTENSION OF AUTHORITY TO ASSURE AVAILABILITY OF CHEMICALS NEEDED FOR WATER TREATMENT

42 USC 300j.

SEC. 7. Section 1441(f) of the Public Health Service Act is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1979".

FEDERAL AGENCIES

42 USC 300j-6.

SEC. 8. (a) Section 1447(a) of the Public Health Service Act is amended to read as follows:

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency (1) having jurisdiction over any federally owned or maintained public water system or (2) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421(d)(2)) shall be subject to, and comply with, all Federal, State, and local requirements, administrative authorities, and process and sanctions respecting the provision of safe drinking water and respecting any underground injection program in the same manner, and to the same extent, as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural

42 USC 300h.

(including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process or sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply, notwithstanding any immunity of such agencies, under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty under this title with respect to any act or omission within the scope of his official duties.". Liability.

(b) Section 1401(12) of such Act is amended to read as follows: "Person," 42 USC 300f.

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency).".

(c) Section 1449(e) of such Act is amended by adding the following at the end thereof: "Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State or local government from— Citizen's civil actions. 42 USC 300j-8.

"(1) bringing any action or obtaining any remedy or sanction in any State or local court, or

"(2) bringing any administrative action or obtaining any administrative remedy or sanction,

against any agency of the United States under State or local law to enforce any requirement respecting the provision of safe drinking water or respecting any underground injection control program. Nothing in this section shall be construed to authorize judicial review of regulations or orders of the Administrator under this title, except as provided in section 1448. For provisions providing for application of certain requirements to such agencies in the same manner as to non-governmental entities, see section 1447.". Judicial review. 42 USC 300j-7. *Ante*, p. 1396; *Infra*.

(d) Section 1447 of such Act is further amended by inserting at the end thereof a new subsection (c): Federal agencies. 42 USC 300j-6.

"(c)(1) Nothing in the Safe Drinking Water Amendments of 1977 shall be construed to alter or affect the status of American Indian lands or water rights nor to waive any sovereignty over Indian lands guaranteed by treaty or statute. Indian rights and sovereignty.

"(2) For the purposes of this Act, the term 'Federal agency' shall not be construed to refer to or include any American Indian tribe, nor to the Secretary of the Interior in his capacity as trustee of Indian lands.". "Federal agency."

EMERGENCY ASSISTANCE

SEC. 9. Section 1442(a)(2) of the Public Health Service Act is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph at the end thereof: 42 USC 300j-1.

"(B) The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation respecting drinking water which the Administrator determines (i) may reasonably be anticipated to endanger public health, and (ii) arises from unknown conditions or conditions which such entity is unable to remedy without such emergency assistance.". Technical assistance and grants.

TECHNICAL AND CONFORMING AMENDMENTS

42 USC 300g-5.

SEC. 10. (a) Section 1416(b)(1) of the Public Health Service Act is amended by striking out "containment" wherever it appears therein and by inserting in lieu thereof "contaminant".

42 USC 300j-1.

(b) Section 1442(b)(3)(C) of such Act is amended by striking out "1443(d)" and by inserting in lieu thereof "1443(c)".

AGENCY PERSONNEL

SEC. 11. (a) Subsection (a) of section 5108 of title 5, United States Code, is amended by striking out "an aggregate of 3,243" and inserting in lieu thereof "an aggregate of 3,293".

42 USC 300j-10.
42 USC 300f.

(b) To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

5 USC 5332 note.

MONITORING OF UNREGULATED POLLUTANTS

National drinking water regulations. *Ante*, p. 1394.

SEC. 12. (a) Section 1412(e)(2) of the Public Health Service Act is amended by striking the word "and" at the end of clause (E) and by striking the period at the end of clause (F) and inserting in lieu thereof: "; and", and by adding the following new clause at the end thereof: "(G) periodic assessments and evaluations of unregulated contaminants which may require continuous monitoring or regulation.".

State enforcement, failure.
42 USC 300g-3.

(b)(1) Section 1414(c) of such Act is amended by striking out "form and manner for giving such notice. Such notice" and inserting in lieu thereof "form, manner, and frequency for giving notice under this subsection. Notice under the first sentence of this subsection".

Contaminant levels, notice to water users.

(2) Section 1414(c) is further amended by inserting: "The Administrator may also require the owner or operator of a public water system to give notice to the persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 1445(a)." after "issued by the system.".

Infra.

(3) Section 1414(c) is further amended by striking out "thereunder" and inserting in lieu thereof "issued under this subsection".

Records and inspections.
42 USC 300j-4.

(c) Section 1445(a) of such Act is amended by striking out "or" before "in administering", and by inserting before the period at the end thereof: ", in evaluating the health risks of unregulated contaminants, or in advising the public of such risks".

(d) Section 1445(b)(1) of such Act is amended by inserting "(A)" immediately after "person subject to", by striking out "or" after "1412" and inserting in lieu thereof ", (B) an", by striking out "(or person" and substituting the following: ", or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a), or

person", and by striking out the parenthesis after "or other person" and substituting "referred to in clause (A), (B), or (C)".

EMERGENCY ASSISTANCE

SEC. 13. Section 1442(a)(2)(B) of the Public Health Service Act, as amended by section 9 of this Act, is further amended by striking out "respecting drinking water" and all that follows down through the period at the end thereof and substituting: "affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subparagraph shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.".

Ante, p. 1397.

Grants.

CLEAN AIR ACT TECHNICAL AND CONFORMING AMENDMENTS

SEC. 14. (a) The Clean Air Act is amended as follows:

(1) in section 110(a)(2)(H) insert a semicolon at the end thereof;

(2) in section 110(a)(2)(J) strike out the comma at the end thereof and substitute a semicolon;

(3) in section 110(a)(5)(D) strike out "preconstruction or premodification";

(4) in section 110(a)(3) add the following new subparagraph at the end thereof:

"(D) Any applicable implementation plan for which an attainment date later than December 31, 1982, is provided pursuant to section 172(a)(2) shall be revised by July 1, 1979, to include the comprehensvie measures and requirements referred to in subsection (c)(5)(B).";

(5) in section 110 redesignate subsections (g), (h), and (i) (as added by section 108(g) of the Clean Air Act Amendments of 1977) as (h), (i), and (j), respectively;

(6) in section 110(j), as redesignated by paragraph (5) of this subsection, strike out "at such source will enable it" and substitute "will enable such source";

(7) in section 111(a) redesignate paragraph (7) (as added by section 109(f) of the Clean Air Act Amendments of 1977) as paragraph (8);

(8) in section 111 strike out subsection (j) and redesignate the following subsections accordingly;

(9) in section 111(j)(2), as redesignated by paragraph (8) of this subsection, strike out "(8)" and substitute "(B)";

State implementation plans for ambient air quality standards. 42 USC 7410.

Ante, p. 694.

Ante, p. 695.

Ante, p. 746.

Ante, p. 696.

New stationary sources, performance standards.

Ante, p. 703.

Ante, p. 701.

Federal enforcement procedures.
Ante, p. 704.

(10) in section 113(b)(3) insert a comma after "coal conversion)" and after "smelter orders)"; and strike out "320" and insert in lieu thereof "324";

(11) in section 113(b)(3) (as amended by section 111(c)(3) of the Clean Air Act Amendments of 1977), insert "or" at the end thereof;

Ante, p. 705.

(12) in section 113(c)(1)(B) (as amended by section 111(d)(2) of the Clean Air Act Amendments of 1977), insert "or" at the end thereof;

Ante, p. 705.

(13) in section 113(c)(1)(D) insert a comma after "Act)" and insert a comma after "penalties)";

Compliance orders.
Ante, p. 705.

(14) in section 113(d)(1) strike out "an order for any stationary source which" and insert in lieu thereof "to any stationary source which is unable to comply with any requirement of an applicable implementation plan an order which" and strike out "any requirement of an applicable implementation plan" and insert in lieu thereof "such requirement";

Ante, p. 715.

(15) in section 113(d)(1)(E) insert ", unless exempted under section 120(a)(2)(B) or (C)," after "notifies the source that"; insert "effective July 1, 1979, as provided" after "noncompliance penalty"; and strike out "120" the second time it appears therein and insert in lieu thereof "120(b)(3) or (g),";

Determination.
Ante, p. 705.

(16) in section 113(d)(2) insert after the first sentence thereof the following: "The Administrator shall determine, not later than 90 days after receipt of notice of the issuance of an order under this subsection with respect to any major stationary source, whether or not any State order under this subsection is in accordance with the requirements of this Act.";

(17) in section 113(d)(4)(A) insert a closing parenthesis after "111(a)(1)";

(18) in the last sentence of section 113(d)(5)(A) strike out "an additional period of" and insert in lieu thereof "an additional period for";

(19) in section 113(d)(8) strike out "or (3)" after "paragraph (1)";

42 USC 7604.

(20) in section 113(d)(10) strike out "issued" and insert in lieu thereof "in effect"; and strike out "other" and insert in lieu thereof "Federal"; and strike out "or section 304" and substitute "and no action under section 304";

42 USC 7414.

(21) in section 113(d)(11) strike out "(and approved by the Administrator)" and substitute "and in effect";

42 USC 7521.

(22) in section 114(a)(iii) strike out "(except with respect to a manufacturer of motor vehicles or motor vehicle engines)" and insert in lieu thereof "(except a provision of title II with respect to a manufacturer of new motor vehicles or new motor vehicle engines)";

(23) in section 114(a)(1) insert "who owns or operates any emission source or who is" after "any person"; and insert "with respect to a provision of title II" after "208";

42 USC 7416.
42 USC 7401 note.

(24) in section 116 insert "(as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" after "and (f)";

(25) in section 119(a), add the following new paragraph at the end thereof:

"(3) For the purposes of sections 110, 304, and 307 of this Act, any order issued by the State and in effect pursuant to this subsection shall become part of the applicable implementation plan.";

Primary nonferrous smelter orders.
Ante, p. 712.
Ante, pp. 691, 771, 772.

(26) in section 119(d)(3) strike out "319" and insert in lieu thereof "321";

(27) in the first sentence of section 119(e) strike out "such order" and insert in lieu thereof "an order under this section";

(28) in section 120(a)(2)(A)(i) insert "(whether or not such source is subject to a Federal or State consent decree)" after "plan";

Noncompliance penalty.
Ante, p. 715.

(29) in section 120(a)(2)(A)(iii) insert ", or Federal or State consent decree" after "subparagraph (B)"; and strike out "or suspension." at the end thereof and insert in lieu thereof ", suspension, or consent decree";

(30) in section 120(a)(2)(B)(i) insert "section 113(d)(5) or" after "under" and insert "(as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" after "119";

42 USC 7401 note.

(31) in section 120(a)(2)(B)(ii) insert "(as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)" after "119(c)(1)";

(32) in section 120(b)(8) strike out "(6)" and substitute "(4)";

(33) in section 120(b)(2)(A) strike out "subsection (e)" and insert in lieu thereof "subsection (a)(1)(B)(i)";

(34) in section 120(b), after paragraph (9) insert: "In any case in which the State establishes a noncompliance penalty under this section, the State shall provide notice thereof to the Administrator.";

State penalty, notice.

(35) in the next to last sentence of section 120(b) strike out "delayed compliance" and insert in lieu thereof "noncompliance"; strike out "publication of the proposed penalty" and insert in lieu thereof "receipt of notice of the State penalty assessment";

(36) in the last sentence of section 120(b) strike out "delayed compliance" and insert in lieu thereof "noncompliance"; and strike out "facility" and insert in lieu thereof "source";

(37) in section 120(d)(2)(A) insert "the economic value which a delay in compliance beyond July 1, 1979, may have for the owner of such source, including" after "no less than"; and strike out "which a delay in compliance beyond July 1, 1979, may have for the owner or operator of such source" and insert in lieu thereof "which such a delay may have for the owner or operator of such source";

(38) in section 120(e) insert a comma after "(b)";

(39) in section 126(a)(1) strike out ", relating to significant deterioration of air quality," and substitute "(relating to significant deterioration of air quality)";

Ante, p. 724.

(40) in section 162(a)(4) insert a comma after "size";

Ante, p. 731.

(41) in section 163(a) strike out "165(d)(2)(C)(iv)" and insert in lieu thereof "section 165(d)(2)(C)(iv))";

Ante, p. 732.
Post, p. 1402.

90-224 O - 82 - 16

Ante, p. 733.
Ante, p. 731.

(42) in section 164(b)(2) insert "or is inconsistent with the requirements of section 162(a) or of subsection (a) of this section" after "this section";

(43) in section 164(e), insert "an" after "If any State affected by the redesignation of";

Preconstruction requirements.
Ante, p. 735.
Ante, p. 1399.

(44) in section 165(a)(1) strike out the colon at the end thereof and insert in lieu thereof a semicolon;

(45) in section 165(a)(3) insert ", as required pursuant to section 110(j)," after "demonstrates";

(46) in section 165(b) insert "cause or" before "contribute"; and strike out "actual" before "allowable";

(47) in section 165(d)(2)(C)(ii) strike out "contrbute" and insert in lieu thereof "contribute";

(48) in section 165(d)(2)(C)(iii) strike out "quality related" and substitute "quality-related" and strike out the comma after "concentrations";

(49) in section 165(d)(2)(C)(iv) strike out "such sources" and substitute "such facility"; strike out "together with all other sources,"; and insert "cause or contribute to concentrations of such pollutant which" before "exceed";

Sulfur oxide emissions.

(50) in section 165(d)(2)(D)(iii) strike out everything after "as may be necessary to assure that" down through the colon and insert in lieu thereof the following: "emissions of sulfur oxides from such facility will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which exceed the following maximum allowable increases for such areas over the baseline concentration for such pollutant and to assure that such emissions will not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less on more than 18 days during any annual period:";

Definitions.

(51) in section 165(d)(2)(D) add the following new clause:

"(iv) For purposes of clause (iii), the term 'high terrain area' means with respect to any facility, any area having an elevation of 900 feet or more above the base of the stack of such facility, and the term 'low terrain area' means any area other than a high terrain area.";

Ante, p. 740.

(52) in the second sentence of section 168(b) strike out "in accordance with this definition" and insert in lieu thereof "(in accordance with the definition of 'commenced' in section 169(2))";

Infra.

(53) immediately after section 168, strike out subpart 2 of part C of title I of such Act and insert such subpart after section 169;

Ante, p. 740.

(54) in section 169(2) add the following new subparagraph (C) at the end thereof:

"(C) The term 'construction' when used in connection with any source or facility, includes the modification (as defined in section 111(a)) of any source or facility.";

Ante, p. 1399.
Nonattainment plan provisions.
Ante, p. 746.

(55) in section 172(b)(4) strike out "paragraph (1)" and insert in lieu thereof "subsection (a)";

(56) in section 172(c) strike out "July 1, 1987" and insert in lieu thereof "December 31, 1987";

(57) in section 173(1)(A) strike out "facility" each place it appears and insert in lieu thereof "source"; strike out "from new" and insert in lieu thereof "from new or modified"; and insert "applicable" before "implementation plan"; Permit requirements. 42 USC 7503.

(58) in section 173 strike out "and" after the semicolon in paragraph (2); strike out the period at the end of paragraph (3) and insert in lieu thereof "; and"; and add the following at the end thereof:

"(4) the applicable implementation plan is being carried out for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of this part.";

(59) in section 176(a)(1) insert "national" before "primary"; *Ante*, p. 749.

(60) in section 202(a) strike out "(a) Except as otherwise provided in subsection (b)— Moving sources emission standards.

"(a)(1) Except as otherwise provided in subsection (b) the" and substitute "(a) Except as otherwise provided in subsection (b)— *Ante*, p. 791.

"(1) The";

(61) in section 202(a)(3)(B) strike out "During the period of June 1 through December 31, 1979, and during each period of June 1 through December 31 of each third year after 1979," and insert in lieu thereof "During the period of June 1 through December 31, 1978, in the case of hydrocarbons and carbon monoxide, or during the period of June 1 through December 31, 1980, in the case of oxides of nitrogen, and during each period of June 1 through December 31 of each third year thereafter,"; *Ante*, p. 765.

(62) in the last sentence of section 202(a)(3)(B) strike out "of" before "from";

(63) in section 202(a)(3)(E) strike out "June 1, 1979," and insert in lieu thereof "June 1, 1978, in the case of hydrocarbons and carbon monoxide, and June 1, 1980, in the case of oxides of nitrogen,";

(64) in section 202(b)(1)(B) strike out "model year 1976" and insert in lieu thereof "calendar year 1976"; *Ante*, p. 751.

(65) in section 202(b)(1)(B)(i) strike out "United States" and insert in lieu thereof "other";

(66) in section 203(a)(3)(B), strike out the comma after "purchaser" and substitute a semicolon; *Ante*, p. 761.

(67) in section 203(a)(4)(C), insert "or" after "person,"; *Ante*, p. 755.

(68) in the last sentence of section 203(a) insert a period after "215"; *Ante*, p. 757.

(69) in section 206(g)(3) insert "shall" after "(D)"; *Ante*, p. 768.

(70) in section 207(a) strike out "(3) The cost" and substitute: *Ante*, p. 754.

"(3) The cost";

(71) in section 207(f), as added by section 212 of the Clean Air Act Amendments of 1977, strike out "(f)" and substitute "(h)"; *Ante*, p. 758.

(72) in section 207(h)(2) (as added by section 212 of the Clean Air Act Amendments of 1977 and redesignated in paragraph (65) of this section), strike out "as determined and" and insert in lieu thereof "as determined under";

(73) in section 211(f)(2) strike out "first"; and insert ", except as otherwise provided pursuant to a waiver under paragraph (4)" after "per gallon of fuel"; *Ante*, p. 762.

(74) in section 211(f)(4) insert "or the limitation specified in paragraph (2) of this subsection," after "subsection";

(75) in section 215(d) strike out "December 31, 1981," and insert in lieu thereof "December 31, 1980,";

(76) in section 302(e), insert a comma after "individual";

(77) in section 304(a)(3) insert "or modified" after "new";

(78) in section 304(f)(3) strike out "requirements" after "smelter orders)," and substitute "any condition or requirement"; and strike out "or" before "section 169A" and insert ", or" after "(relating to ozone protection)";

(79) in the first sentence of section 307(b)(1), insert "or requirement" before "under section 112,"; strike out "under section 111" and insert in lieu thereof "or requirement under section 111,"; strike out "any rule or order issued under section 120 (relating to noncompliance penalties," and insert in lieu thereof "any rule issued under section 113, 119, or under section 120, or";

(80) in the second sentence of section 307(b)(1) insert "under section 111(j), under section 112(c), under section 113(d), under section 119, or" before "under section 120"; and insert "(as in effect before the date of enactment of the Clean Air Act Amendments of 1977)" after "119(c)(2) (A), (B), or (C)"; and insert "(including any denial or disapproval by the Administrator under title I)" after "under this Act";

(81) in section 323(d), strike out "eleven" and substitute "thirteen"; strike out "seven" and substitute "nine"; strike out ", by and with the advice and consent of the Senate";

(82) in section 324(j) insert after "(j)" the following: "The Commission may appoint and fix the pay of such staff as it deems necessary.";

(83) redesignate section 325 (as added by section 315 of the Clean Air Act Amendments of 1977) as section 327 and in subsection (b)(4) thereof, strike out "103(b)(5)" and insert in lieu thereof "103(a)(5)"; and

(84) in title III, add the following new section after section 325:

"CONSTRUCTION OF CERTAIN CLAUSES

"SEC. 326. The parenthetical cross references in any provision of this Act to other provisions of the Act, or other provisions of law, where the words "relating to" or "pertaining to" are used, are made only for convenience, and shall be given no legal effect.".

(b) The Clean Air Act Amendments of 1977 (Public Law 95-95) is amended as follows:

(1) in section 111, redesignate the second subsection (b) as paragraph (3) and redesignate existing paragraph (3) as paragraph (4);

(2) in section 129(a)(2)(C), strike out "January 1, 1979," and insert in lieu thereof "July 1, 1979,";

(3) in the next to last sentence of section 129(a)(2), strike "at" after "judgment";

Ante, p. 762.

Ante, p. 757.

Ante, p. 770.

Ante, p. 771.

Ante, pp. 776, 777.

Ante, pp. 704, 712, 715.

42 USC 7401.

Ante, p. 785.

Ante, p. 788.

Ante, p. 790.

42 USC 7625a.

Ante, p. 704.

Ante, p. 745.

(4) in section 129(c), strike out "subpart D" in each place it appears and insert in lieu thereof "part D of title I" and strike out "101" and insert in lieu thereof "110"; *Ante*, p. 750.

(5) in section 224(g) strike out "after 'engines' " and insert in lieu thereof "after 'engine' "; and *Ante*, p. 769.

(6) in section 406(c) strike out "section 110 of this Act" and insert in lieu thereof "section 110 of the Clean Air Act". *Ante*, p. 796.

Approved November 16, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-338 accompanying H.R 6827 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-190 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 123 (1977):

May. 24, considered and passed Senate.

July. 12, considered and passed House, amended, in lieu of H.R. 6827.

Aug. 5, Senate agreed to House amendment with amendments.

Nov. 1, House agreed to one Senate amendment and amended the other; Senate concurred in House amendment.

NOTE

S. 1528, amendments to the Safe Drinking Water Act, was signed into law by President Carter November 16, 1977 (Public Law 95–190).

The Senate Committee on Environment and Public Works reported an original bill, S. 1528, extending and increasing authorizations for appropriations under the Act for one year on May 16, 1977. The Senate approved this bill May 24, 1977. The House Committee on Interstate and Foreign Commerce on May 16, 1977, also approved a clean bill, H.R. 6827, extending authorizations for three years and making other amendments. The House considered and passed the bill by voice vote on July 12. Language of the House bill was then inserted in S. 1528. On August 5 the Senate agreed to the House amendment to S. 1528, with amendments. Finally, on November 1, 1977, the House and Senate reached agreement on S. 1528. (During final consideration of this bill, certain technical and conforming amendments to the Clean Air Act Amendments of 1977, Public Law 95–95, were attached as a rider to S. 1528.)

Calendar No. 164

95TH CONGRESS
1ST SESSION

S. 1528

[Report No. 95–190]

IN THE SENATE OF THE UNITED STATES

MAY 16, 1977

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following bill; which was read twice and ordered to be placed on the calendar

A BILL

To amend section 2 of the Safe Drinking Water Act (Public Law 93–523) to extend and increase authorizations provided for public water systems.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Drinking Water Act Amendments of 1977".

SEC. 2. Subsection 2(a) of the Safe Drinking Water Act (88 Stat. 1660) is amended—

(1) by amending section 1442(c) (88 Stat. 1684) to read as follows:

"(c) There are authorized to be appropriated to carry

out the provisions of this section $17,000,000 for the fiscal year ending September 30, 1978.";

(2) by amending section 1443 (a) (5) (88 Stat. 1684) to read as follows:

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $20,500,000 for the fiscal year ending September 30, 1978.";

(3) by amending section 1443 (b) (5) (88 Stat. 1685) to read as follows:

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1978."; and

(4) (A) by amending section 1444 (a). (88 Stat. 1685) by striking out "The Administrator may make grants" and inserting in lieu thereof "The Administrator shall offer grants"; and

(B) by amending section 1444 (c) (88 Stat. 1686) to read as follows:

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1978.".

SEC. 3. There are authorized to be appropriated to the Environmental Protection Agency for research and development activities under the Safe Drinking Water Act $16,000,000 for the fiscal year ending September 30, 1978.

Calendar No. 164

95TH CONGRESS, 1st Session | SENATE | REPORT No. 95-190

SAFE DRINKING WATER ACT AUTHORIZATIONS

MAY 16, 1977.—Ordered to be printed

Mr. RANDOLPH, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 1528]

The Committee on Environment and Public Works reports an original bill (S. 1528) to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorization provided for public water systems and recommends that the bill do pass.

GENERAL STATEMENT

This bill amends the Safe Drinking Water Act of 1974 to extend until September 30, 1978 the authorizations for appropriations which expire on September 30, 1977.

Congress enacted the Safe Drinking Water Act in an effort to assure a disease-free supply of water at the tap throughout the country. While previous Federal regulation in this area was restricted to water supplies used by interstate carriers, the Safe Drinking Water Act provides for Federal standards for the protection of the public from all harmful pollutants in its water supply.

Under the law the Environmental Protection Agency is directed to prescribe national primary drinking water regulations which set maximum levels for contaminants which may adversely affect the public health. It is the goal of the Act for States to assume responsibility for enforcement of these standards and standards for the control of underground injections. In this regard the Administrator is authorized to provide financial assistance to the States for monitoring drinking water supplies ($40 million through fiscal year 1977) and for the protection of underground water sources ($12.5 million through fiscal year 1977). In addition, the Administrator is authorized to make grants and guarantee loans for projects which demonstrate improved tech-

nology for providing a safe drinking water supply or for recycling waste waters for drinking ($25 million through fiscal year 1977).

Finally, the act authorizes the total of $75 million through fiscal year 1977 for research, technical assistance and training of State and local water supply personnel by the Administrator.

In order to extend this important national program, the reported bill authorizes the following amounts through fiscal year 1978: $17 million for technical information and training; $20.5 million for State water-supply supervision programs; $6 million for State underground injection control program; $25 million for technology demonstration grants; and $16 million for research and development activities.

Section 1444(c) of the act authorizes the Administrator to provide funding for projects which demonstrate technology for recycling waste waters for drinking water. One promising project is the Denver Water Board's proposal for a facility of this type. However, the Environmental Protection Agency has failed to make funding available for this or similar projects. Therefore, the bill amends section 1444 to require the Administrator to offer grants under this section.

Other substantive amendments to the act may be required to facilitate its implementation, and so the committee does not wish to approve an extension of this program beyond one fiscal year. The committee hopes to conduct oversight hearings on the Safe Drinking Water Act later in this session or early in the next session. Of particular interest will be the progress made by the States in assuming primary enforcement responsibility for public water systems and for underground injection control programs.

Rollcall Votes

There were no rollcall votes during the committee's consideration of this bill. The committee ordered the bill reported by unanimous voice vote.

Cost of Legislation

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in this report of the committee's estimate of the costs of the reported legislation, together with estimates prepared by any Federal agency. The $84 million authorization contained in the bill is based upon requests by the Environmental Protection Agency.

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of costs of such bill prepared by the Congressional Budget Office. The report follows:

Congressional Budget Office,
U.S. Congress,
Washington, D.C., May 13, 1977.

Hon. Jennings Randolph,
Chairman, Committee on Environment and Public Works, U.S. Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the

attached cost estimate for an original bill, the Safe Drinking Water Act Amendments of 1977.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director)

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 13, 1977.

1. Bill number: Original Bill.
2. Bill title: Safe Drinking Water Act Amendments of 1977.
3. Bill status: As reported from the Senate Committee on Environment and Publie Works.
4. Bill purpose: The bill authorizes to be appropriated in fiscal year 1978 to the Environmental Protection Agency (EPA) $17 million for research, technical assistance and training of personnel, $26.5 million for state grants for public water system supervision and underground water source protection programs, $25 million for special study and demonstration project grants and $16 million for drinking water research and development.
5. Cost estimate:

	Millions
Fiscal year 1978:	
Authorization level	$84.5
Estimated costs	33.2
Fiscal year 1979:	
Authorization level	-----
Estimated costs	28.7
Fiscal year 1980:	
Authorization level	-----
Estimated costs	16.6
Fiscal year 1981:	
Authorization level	-----
Estimated costs	5.5
Fiscal year 1982:	
Authorization level	-----
Estimated costs	.5

The costs of this bill fall within budget function 300.

6. Basis of estimate: The authorization level is that stated in the bill. The following weighted 5-year spendout rate was applied to the total authorization level:

	Percent
Year 1	39
Year 2	34
Year 3	20
Year 4	6.5
Year 5	.5

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: James V. Manaro.
10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

Regulatory Impact Statement

Paragraph 5(a) of rule XXIX of the Standing Rules of the Senate requires the inclusion of a regulatory impact statement in committee reports on proposed legislation. Certain regulations implementing the Safe Drinking Water Act have been promulgated. This legislation neither adds to nor subtracts from that body of regulations.

Changes in Existing Law

In the opinion of the committee, it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate in order to expediate the business of the Senate.

[From the Congressional Record, Nov. 1, 1977]

SENATE DEBATE ON S. 1528

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1528.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the House agree to the amendment of the Senate numbered 2 to the amendment of the House to the bill (S. 1528) entitled "An Act to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water systems."

Resolved, That the House agree to the amendment of the Senate numbered 1 to the amendment of the House to the aforesaid bill, with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

(B) (i) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number of States.

(ii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed to disrupt a State underground injection control program only if it would be infeasible to comply with both such regulation and the State underground injection control program.

(iii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed unnecessary only if, without such regulation, underground sources of drinking water will not be endangered by any underground injection.

Resolved, That the House agree to the amendment of the Senate numbered 3 to the amendment of the House to the aforesaid bill, with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

AGENCY PERSONNEL

SEC. 11. (a) Subsection (a) of section 5108 of title 5, United States Code, is amended by striking out "an aggregate of 3,243" and inserting in lieu thereof "an aggregate of 3,293."

(b) To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

MONITORING OF UNREGULATED POLLUTANTS

SEC. 12. (a) Section 1412(e)(2) of the Public Health Service Act is amended by striking the word "and" at the end of clause (E) and by striking the period at end of Clause (F) and inserting in lieu thereof; "; and", and by adding the following new clause at the end thereof:."(G) periodic assessments and evaluations of unregulated contaminants which may require continuous monitoring or regulation."

(b)(1) Section 1414(c) of such Act is amended by striking out "form and manner for giving such notice. Such notice" and inserting in lieu thereof "form, manner, and frequency for giving notice under this subsection. Notice under the first sentence of this subsection".

(2) Section 1414(c) is further amended by inserting: "The Administrator may also require the owner or operator of a public water system to give notice to the

persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 1445(a)." after "issued by the system.".

(3) Section 1414(c) is further amended by striking out "thereunder" and inserting in lieu thereof "issued under this subsection".

(c) Section 1445(a) of such Act is amended by striking out "or" before "in administering" and by inserting before the period at the end thereof: ", in evaluating the health risks of unregulated contaminants, or in advising the public of such risks".

(d) Section 1445(b)(1) of such Act is amended by inserting "(A)" immediately after "person subject to", by striking out "or" after "1412" and inserting in lieu thereof ", (B) an", by striking out "(or person)" and substituting the following: ", or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a), or person", and by striking out the parenthesis after "or other person" and substituting "referred to in clause (A), (B), or (C)".

EMERGENCY ASSISTANCE

SEC. 13. Section 1442(a)(2)(B) of the Public Health Service Act, as amended by section 9 of this Act, is further amended by striking out "respecting drinking water" and all that follows down through the period to the end thereof and substituting: "affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subparagraph shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagrah.".

[Material pertaining to Clean Air Act technical and conforming amendments has been omitted.]

Mr. RANDOLPH. Mr. President, presently pending before the Senate are amendments to S. 1528, the Safe Drinking Water Act Amendments of 1977.

The original version of this bill, approved by the Senate in May, extended through fiscal year 1978 the authorization for the safe drinking water program, which is administered by the Environmental Protection Agency. In July the House approved amendments to the Senate bill which provided for a 2-year reauthorization, extended for 2 years the date by which States must assume primary enforcement of the act, and made other substantive changes in the program. In August the Senate made additional changes in S. 1528 before sending it back to the House for approval. These increase the number of supergrade positions available to the EPA, place certain qualifications on the act's underground injection control program, and provide $16 million for safe drinking water research.

Consultations held by the Senate Committee on Environment and Public Works with the House Committee on Interstate and Foreign Commerce and the administration indicate that further clarifications in S. 1528 are required. The measure now before the Senate contains these modifications and has been approved by the House. In addition, this legislation is being used to enact technical changes in the Clean Air Act amendments (Public Law 95–95).

I briefly discuss these changes in the previously adopted version of the Safe Drinking Water Act.

S. 1528, as passed by the Senate in August, allocated to the Environmental Protection Agency a total of 150 supergrade positions, which could be exempted from ceilings imposed by civil service laws and regulations. The provision was intended to augment the Agency's cadre of senior management and scientific personnel—substantially smaller in proportion to Agency size than that of other Federal agencies which carry out similar regulatory functions.

There has been consultation on this matter with the EPA, the Office of Management and Budget, the Civil Service Commission, and the House Committee on Post Office and Civil Service. The Senate Environment and Public Works Committee and the House Commerce Committee have agreed to authorize a total of 80 new positions. Fifty of these will be provided by increasing the Government-wide quota on supergrades contained in 5 U.S.C. 5108(a), and the Civil Service Commission has agreed that EPA will have first priority on assignment of these positions. Thirty additional supergrade positions will be provided directly to EPA and will be exempt from civil service laws and regulations.

The second amendment relates to the underground injection control (UIC) program under the Safe Drinking Water Act. In August the Senate approved language which directs the Administrator to avoid issuing UIC regulations which unnecessarily duplicate or disrupt existing State programs. This language was prompted by a concern over the effects of these requirements on the exploration for, and development of, oil and natural gas.

The amendments before the Senate clarify when a regulation would be unnecessarily disruptive or duplicative. According to the language approved by the Environment and Public Works Committee, a regulation would be disruptive only if it would be infeasible to comply with both the regulation and the State UIC program. Furthermore, a regulation would be deemed duplicative only if, without such regulation, underground sources of drinking water will not be endangered by any underground injection. Mr. President, these additions will insure protection of the public health without unduly disrupting existing State UIC programs or the national energy effort.

A third amendment, recommended by the National Academy of Sciences and the House Commerce Committee Subcommittee on Oversight and Investigations, authorizes the Administrator to require public water systems to monitor for sodium and other unregulated contaminants and to notify their customers concerning the level of this contaminant in their drinking water. The intent of the provision is to insure that medically sensitive groups, such as heart patients, are able to avoid drinking water which may be harmful to them, but not to the general public. The Environmental Protection Agency currently recommends that States require monitoring for sodium, but it has no statutory authority for making this recommendation mandatory.

Finally, in August the Senate approved an authorization of $16 million for research and development activities under the Safe Drinking Water Act. However, that authorization has been included in the conference report on H.R. 5101, the Environmental Research, Development, and Demonstration Act of 1977, approved by the Senate on October 20—and has, therefore, been deleted from S. 1528.

Mr. President, I believe that acceptance by the Senate of S. 1528 with these amendments will insure the continued development of a national program to provide an adequate and contaminant-free supply of drinking water to all Americans.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Muskie, I move that the Senate concur in the House amendments to the Senate amendments on S. 1528.

Mr. STEVENS. There is no objection.

The motion was agreed to.

[From the Congressional Record, Aug. 5, 1977]

SENATE DEBATE ON S. 1528

Mr. ROBERT C. BYRD. Mr. President, this is a matter that has been cleared on both sides. It is imperative that the Senate act quickly; the other body is about to go out, and asks that the papers be returned.

Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1528.

The PRESIDING OFFICER (Mr. Zorinsky) laid before the Senate the amendment of the House of Representatives to the bill (S. 1528) to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water systems, as follows:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Amendments of 1977".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 1442(a) of the Public Health Service Act is amended by inserting "other than subsection (a)(2)(B) and provisions relating to research" after "section"; by striking out "and"; and by striking out the period at the end thereof and substituting "; and $17,000,000 for each of the fiscal years 1978 and 1979. There are authorized to be appropriated to carry out subsection (a)(2)(B) $8,000,000 for each of the fiscal years 1978 and 1979.".

(b) Section 1443(a)(5) of such Act is amended by striking out "and" and by inserting before the period at the end thereof: ", $35,000,000 for fiscal year 1978, and $45,000,000 for fiscal year 1979".

(c) Section 1443(b)(5) of such Act is amended by striking out "and", and by inserting before the period at the end thereof: ", and $10,000,000 for each of the fiscal years 1978 and 1979".

(d) Section 3(c) of the Safe Drinking Water Act is amended by striking out "and" and by inserting "; and $1,000,000 for each of fiscal years 1978 and 1979" after "1977".

(e) Nothing in this Act shall be construed to authorize the appropriation of any amount for research under title XIV of the Public Health Service Act (relating to safe drinking water).

STUDIES

SEC. 3. (a) Section 1442(a)(3) of the Public Health Service Act is amended by inserting "(A)" after "(3)" and by adding the following at the end thereof:

"(B) Not later than eighteen months after the date of enactment of this subparagraph, the Administrator shall submit a report to Congress which identifies and analyzes—

"(i) the anticipated costs of compliance with interim and revised national primary drinking water regulations and the anticipated costs to States and units of local governments in implementing such regulations;

"(ii) alternative methods of (including alternative treatment techniques for) compliance with such regulations;

"(iii) methods of paying the costs of compliance by public water systems with national primary drinking water regulations, including user charges, State or local taxes or subsidies, Federal grants (including planning or construction grants, or both), loans, and loan guarantees, and other methods of assisting in paying the costs of such compliance;

"(iv) the advantages and disadvantages of each of the methods referred to in clauses (ii) and (iii);

"(v) the sources of revenue presently available (and projected to be available) to public water systems to meet current and future expenses; and

"(vi) the costs of drinking water paid by residential and industrial consumers in a sample of large, medium, and small public water systems and of individually owned wells, and the reasons for any differences in such costs.

The report required by this subparagraph shall identify and analyze the items required in clauses (i) through (v) separately with respect to public water systems serving small communities. The report required by this subparagraph shall include such recommendations as the Administrator deems appropriate.".

(b) **Section 1442** of such Act is amended by redesignating subsection (c) as (e) and by inserting the following new subsection after subsection (b):

"(c) Not later than eighteen months after the date of enactment of this subsection, the Administrator shall submit a report to Congress on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data compiled by the National Water Commission and others shall be utilized to the extent possible.".

(c) **Section 1412(e)(2)** of such Act is amended by inserting before the period at the end of the first sentence thereof the following: ", and revisions thereof reflecting new information which has become available since the most recent previous report shall be reported to the Congress each two years thereafter".

(d) **Section 3(b)** of the Safe Drinking Water Act is amended by striking out "for transmittal" and inserting "and" in lieu thereof.

(e) (1) **Section 1442(a)** of such Act is amended by adding the following new paragraphs at the end thereof:

"(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

"(11) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.".

(2) Nothing in this Act shall be construed to alter or affect the Administrator's authority or duty under title 14 of the Public Health Service Act to promulgate regulations or take other action with respect to any contaminant.

TRAINING

SEC. 4. **Section 1442** of the Public Health Service Act, as amended by section 3(b) of this Act, is further amended by inserting the following new subsection after subsection (c):

"(d) The Administrator shall—

"(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies of units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

98-224 O - 82 - 17

"(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

Reasonable fees may be charged for training provided under paragraph (1)(B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.".

GRANTS FOR STATE PROGRAMS

SEC. 5. (a) **Section 1443(a)** of the Public Health Service Act is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraphs:

"(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

"(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

"(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

"(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under this paragraph may not exceed 75 per centum of the allotment which the State would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of each fiscal years 1979 and 1980 the amounts retained by the Administrator for any preceding fiscal year and not awarded by the beginning fiscal year 1979 or 1980 to the States to which such amounts were originally allotted may be removed from the original allotment and reallotted for fiscal year 1979 or 1980 (as the case may be) to States which have assumed primary enforcement responsibility by the beginning of such fiscal year.

"(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section—

"(A) within ninety days after receipt of such application, or

"(B) not later than the first day of the fiscal year for which the grant application is made,

whichever is later.".

EXTENSION OF DEADLINE FOR STATE UNDERGROUND INJECTION CONTROL PROGRAMS

SEC. 6. (a) **Section 1422(b)(1)(A)** of the Public Health Service Act is amended by inserting the following new sentence at the end thereof: "The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days."

(b) **Section 1421(b)** of such Act is amended by inserting the following new paragraph at the end thereof:

"(3)(A) The regulations of the Administrator under this section shall permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State.

"(B) Nothing in this section shall be construed to alter or affect the duty to assure that underground sources of drinking water will not be endangered by any underground injection."

EXTENSION OF AUTHORITY TO ASSURE AVAILABILITY OF CHEMICALS NEEDED FOR WATER TREATMENT

SEC. 7. **Section 1441(f)** of the Public Health Service Act is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1979".

FEDERAL AGENCIES

SEC. 8. (a) **Section 1447(a)** of the Public Health Service Act is amended to read as follows:

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency (1) having jurisdiction over any federally owned or maintained public water system or (2) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421(d)(2)) shall be subject to, and comply with, all Federal, State, and local requirements, administrative authorities, and process and sanctions respecting the provision of safe drinking water and respecting any underground injection program in the same manner, and to the same extent, as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process or sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply, notwithstanding any immunity of such agencies, under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty under this title with respect to any act or omission within the scope of his official duties.".

(b) Section 1401(12) of such Act is amended to read as follows:

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency).".

(c) Section 1449(e) of such Act is amended by adding the following at the end thereof: "Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State or local government from—

"(1) bringing any action or obtaining any remedy or sanction in any State or local court, or

"(2) bringing any administrative action or obtaining any administrative remedy or sanction,

against any agency of the United States under State or local law to enforce any requirement respecting the provision of safe drinking water or respecting any underground injection control program. Nothing in this section shall be construed to authorize judicial review of regulations or orders of the Administrator under this title, except as provided in section 1448. For provisions providing for application of certain requirements to such agencies in the same manner as to nongovernmental entities, see section 1447.".

(d) Section 1447 of such Act is further amended by inserting at the end thereof a new subsection (c):

"(c)(1) Nothing in the Safe Drinking Water Amendments of 1977 shall be construed to alter or affect the status of American Indianlands or water rights nor to waive any sovereignty over Indian lands guaranteed by treaty or statute.

"(2) For the purposes of this Act, the term 'Federal agency' shall not be construed to refer to or include any American Indian tribe, nor to the Secretary of the Interior in his capacity as trustee of Indian lands.".

EMERGENCY ASSISTANCE

SEC. 9. Section 1442(a)(2) of the Public Health Service Act is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph at the end thereof:

"(B) The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation respecting drinking water which the Administrator determines (i) may reasonably be anticipated to endanger public health, and (ii) arises from unknown conditions or conditions which such entity is unable to remedy without such emergency assistance.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 10. (a) Section 1416(b)(1) of the Public Health Service Act is amended by striking out "containment" wherever it appears therein and by inserting in lieu thereof "contaminant".

(b) Section 1442(b)(3)(C) of such Act is amended by striking out "1443(d)" and by inserting in lieu thereof "1443(c)".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives to S. 1528, with amendments which I sent to the desk. I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) proposes, en bloc, unprinted amendments numbered 745, as follows:

On page 9, in **section 6(b) [Sec. 1421(b) SDWA]**, insert a new subparagraph (B) as follows and redesignate the succeeding subparagraph accordingly:

"(B) In establishing regulations under this section, the Administrator shall consider existing State requirements governing underground injection control and avoid the promulgation of requirements which unnecessarily disrupt or duplicate existing State requirements."

On page 13, add at the end thereof the following new sections:

"OFFICERS AND EMPLOYEES OF THE ENVIRONMENTAL PROTECTION AGENCY

"SEC. 11. In the performance of his functions under the authorities administered by the Administrator of the Environmental Protection Agency, the Administrator is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code, except to the extent the Administrator deems such action necessary to the discharge of his functions, he may appoint not more than one hundred and fifty of the scientific, engineering, professional, legal, and administrative personnel of the Agency without regard to such laws, and may fix the compensation of such personnel not in excess of the rate for grade 18 of the General Schedule specified in section 5332 of title 5, United States Code. Not more than 100 of such personnel shall be appointed in fiscal year 1977 and the remaining personnel shall be appointed in fiscal year 1978.

"SEC. 12. There are authorized to be appropriated to the Environmental Protection Agency for research and development activities under the Safe Drinking Water Act $16,000,000 for the fiscal year ending September 30, 1978.".

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

[From the Congressional Record, May 24, 1977]

SENATE DEBATE ON S. 1528

The bill (S. 1528) to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water system, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Drinking Water Act Amendments of 1977".

"SEC. 2. **Subsection 2(a)** of the Safe Drinking Water Act (88 Stat. 1660) is amended—

(1) by amending **section 1442(c)** (88 Stat. 1684) to read as follows:

"(c) There are authorized to be appropriated to carry out the provisions of this section $17,000,000 for the fiscal year ending September 30, 1978.";

(2) by amending section 1443(a)(5) (88 Stat. 1684) to read as follows:

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $20,500,000 for the fiscal year ending September 30, 1978.";

(3) by amending section 1443(b)(5) (88 Stat. 1685) to read as follows:

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1978."; and

(4)(A) by amending section 1444(a) (88 Stat. 1684) by striking out "The Administrator may make grants" and inserting in lieu thereof "The Administrator shall offer grants"; and

(B) by amending section 1444(c) (88 Stat. 1686) to read as follows:

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1978.".

SEC. 3. There are authorized to be appropriated to the Environmental Protection Agency for research and development activities under the Safe Drinking Water Act $16,000,000 for the fiscal year ending September 30, 1978.

Union Calendar No. 176

95TH CONGRESS
1ST SESSION

H. R. 6827

[Report No. 95–338]

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 1977

Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. FLORIO, Mr. OTTINGER, Mr. WALGREN, Mr. STAGGERS, Mr. CARTER, and Mr. MADIGAN) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

MAY 16, 1977

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

A BILL

To amend the Public Health Service Act to extend certain authorities and authorize appropriations for certain fiscal years for purposes of providing assistance to States with respect to safe drinking water, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Amendments of 1977."

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 1442 (c) of the Public Health Service Act is amended by inserting "other than subsection (a) (2) (B) and provisions relating to research" after "section";

by striking out "and"; and by striking out the period at the end thereof and substituting "; and $17,000,000 for each of the fiscal years 1978 and 1979. There are authorized to be appropriated to carry out subsection (a) (2) (B) $8,000,000 for each of the fiscal years 1978 and 1979.".

(b) Section 1443 (a) (5) of such Act is amended by striking out "and" and by inserting before the period at the end thereof: ", $35,000,000 for fiscal year 1978, and $45,000,000 for fiscal year 1979".

(c) Section 1443 (b) (5) of such Act is amended by striking out "and", and by inserting before the period at the end thereof: ", and $10,000,000 for each of the fiscal years 1978 and 1979".

(d) Section 3 (c) of ~~such~~ *the Safe Drinking Water* Act is amended by striking out "and" and by inserting "; and $1,000,000 for each of fiscal years 1978 and 1979" after "1977".

(e) Nothing in this Act shall be construed to authorize the appropriation of any amount for research under title XIV of the Public Health Service Act (relating to safe drinking water).

STUDIES

SEC. 3. (a) Section 1442 (a) (3) of the Public Health Service Act is amended by inserting "(A)" after "(3)" and by adding the following at the end thereof:

"(B) Not later than eighteen months after the date of enactment of this subparagraph, the Administrator shall submit a report to Congress which identifies and analyzes—

"(i) the anticipated costs of compliance with interim and revised national primary drinking water regulations and the anticipated costs to States and units of local governments in implementing such regulations;

"(ii) alternative methods of (including alternative treatment techniques for) compliance with such regulations;

"(iii) methods of paying the costs of compliance by public water systems with national primary drinking water regulations, including user charges, State or local taxes or subsidies, Federal grants (including planning or construction grants, or both), loans, and loan guarantees, and other methods of assisting in paying the costs of such compliance;

"(iv) the advantages and disadvantages of each of the methods referred to in clauses (ii) and (iii);

"(v) the sources of revenue presently available (and projected to be available) to public water systems to meet current and future expenses; and

"(vi) the costs of drinking water paid by residential and industrial consumers in a sample of large, me-

dium, and small public water systems and of individually owned wells, and the reasons for any differences in such costs.

The report required by this subparagraph shall identify and analyze the items required in clauses (i) through (v) separately with respect to public water systems serving small communities. The report required by this subparagraph shall include such recommendations as the Administrator deems appropriate.".

(b) Section 1442 of such Act is amended by redesignating subsection (c) as (e) and by inserting the following new subsection after subsection (b):

"(c) Not later than eighteen months after the date of enactment of this subsection, the Administrator shall submit a report to Congress on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data compiled by the

National Water Commission and others shall be utilized to the extent possible.".

(c) Section 1412 (e) (2) of such Act is amended by inserting before the period at the end of the first sentence thereof the following: ", and revisions thereof reflecting new information which has become available since the most recent previous report shall be reported to the Congress each two years thereafter".

(d) Section 3 (b) of the Safe Drinking Water Act is amended by striking out "for transmittal" and inserting "and" in lieu thereof.

(e) (1) Section 1442 (a) of such Act is amended by adding the following new paragraphs at the end thereof:

"(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

"(11) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamina-

tion. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.".

(2) Nothing in this Act shall be construed to alter or affect the Administrator's authority or duty under title 14 of the Public Health Service Act to promulgate regulations or take other action with respect to any contaminant.

TRAINING

SEC. 4. Section 1442 of the Public Health Service Act, as amended by section 3(b) of this Act, is further amended by inserting the following new subsection after subsection (c):

"(d) The Administrator shall—

"(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies of units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

"(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

Reasonable fees may be charged for training provided under

paragraph (1) (B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.".

GRANTS FOR STATE PROGRAMS

SEC. 5. (a) Section 1443(a) of the Public Health Service Act is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraphs:

"(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

"(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

"(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

"(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under this paragraph may not exceed 75 per centum of the allotment which the State

would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of fiscal year 1980. At the beginning of the fiscal year 1980 the aggregate of such amounts retained by the Administrator and not awarded by the beginning of such fiscal year to the States to which such amounts were originally allotted shall be removed from the original allotment and reallotted to States which have assumed primary enforcement responsibility by the beginning of such fiscal year 1980. Such reallotted funds may be carried over to the fiscal year 1980.

"(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section—

"(A) within ninety days after receipt of such application, or

"(B) not later than the first day of the fiscal year for which the grant application is made,

whichever is later.",

EXTENSION OF DEADLINE FOR STATE UNDERGROUND INJECTION CONTROL PROGRAMS

SEC. 6. Section 1422(b)(1)(A) of the Public Health Service Act is amended by inserting the following new sentence at the end thereof: "The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.".

EXTENSION OF AUTHORITY TO ASSURE AVAILABILITY OF CHEMICALS NEEDED FOR WATER TREATMENT

SEC. 7. Section 1441(f) of the Public Health Service Act is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1979".

FEDERAL AGENCIES

SEC. 8. (a) Section 1447(a) of the Public Health Service Act is amended to read as follows:

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency (1) having jurisdiction over any federally owned or maintained public water system or (2) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421(d)(2)) shall be subject to, and comply with, all Federal,

State, and local requirements, administrative authorities, and process and sanctions respecting the provision of safe drinking water and respecting any underground injection program in the same manner, and to the same extent, as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process or sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply, notwithstanding any immunity of such agencies, under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty under this title with respect to any act or omission within the scope of his official duties.".

(b) Section 1401 (12) of such Act is amended to read as follows:

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency).".

(c) Section 1449 (c) of such Act is amended by adding

the following at the end thereof: "Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State or local government from—

"(1) bringing any judicial action or obtaining any judicial remedy or sanction in any State or local court, or

"(2) bringing any administrative action or obtaining any administrative remedy or sanction,

against any agency of the United States under State or local law respecting the provision of safe drinking water or respecting any underground injection control program. No action brought against any agency of the United States in any State or local court may be removed to a court of the United States under any authority of law. For provisions providing for application of certain requirements to such agencies in the same manner as to nongovernmental entities, see section 1447.".

EMERGENCY ASSISTANCE

SEC. 9. Section 1442(a)(2) of the Public Health Service Act is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph at the end thereof:

"(B) The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviat-

ing any emergency situation respecting drinking water which the Administrator determines (i) may reasonably be anticipated to endanger public health, and (ii) arises from unknown conditions or conditions which such entity is unable to remedy without such emergency assistance.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 10. (a) Section 1416(b)(1) of the Public Health Service Act is amended by striking out "containment" wherever it appears therein and by inserting in lieu thereof "contaminant".

(b) Section 1442(b)(3)(C) of such Act is amended by striking out "1443(d)" and by inserting in lieu thereof "1443(c)".

90-224 O - 82 - 18

95TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 95-338

SAFE DRINKING WATER AMENDMENTS OF 1977

MAY 16, 1977.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 6827]

[Including cost estimate of the Congressional Budget Office]

The Committee on Interstate and Foreign Commerce to whom was referred the bill (H.R. 6827) to amend the Public Health Service Act to extend certain authorities and authorize appropriations for certain fiscal years for purposes of providing assistance to States with respect to safe drinking water, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, line 14, strike out "such" and insert "the Safe Drinking Water".

PURPOSES AND SUMMARY

In 1974, Congress passed the Federal Safe Drinking Water Act (Public Law 93-523). That act directed the Administrator of the Environmental Protection Agency to establish national drinking water safety standards to protect public health. The act also directed States to assume primary responsibility for implementation and enforcement of these standards.

The 1977 Safe Drinking Water Act Amendments (H.R. 6827) are intended to provide continuing, increasing assistance to States, and to permit more time for States to achieve primary enforcement responsibility. It would extend authorizations for 2 additional fiscal years (fiscal year 1978-fiscal year 1979), promote training of drinking water personnel, and provide for additional studies. The bill would not alter or affect the Administrator's rulemaking authorities or duties under the act.

The bill is needed in order to continue Federal stimulation of State efforts to assure safe drinking water. Authorizations of appropriations under the existing act expire at the end of fiscal year 1977. The bill is also needed to extend present deadlines for States to assume primary enforcement responsibility under the act.

Basis for the Legislation

The Safe Drinking Water Act of 1974 was created in response to a number of incidents of acute disease outbreaks caused by contaminants carried by drinking water and the resultant heightened awareness of the inaedquacy of the existing regulatory procedures to assure safe drinking water. The Safe Drinking Water Act was also passed in response to growing concern about chronic exposures to low-level contaminants in the water supply. Of particular concern were the suspected and known *cancer-causing agents* which had been found in water.

The act created a joint Federal-State regulatory system with the Federal Environmental Protection Agency promulgating national drinking water standards and the States bearing the primary enforcement responsibility for the execution of standards. To date, all but two States have indicated that they have attained primary enforcement responsibility or will do so within the next year or two.

Additionally, the act provided 3-year authorizations for the Federal Government to provide technical assistance, information, training and grants to the States to better implement their drinking water programs. Several of these programs are due to expire at the end of fiscal year 1977.

In order to continue Federal encouragement of State efforts to assure the provision of safe drinking water, the Committee bill (H.R. 6827) this year authorizes appropriations for the following programs for the next two fiscal years:

	Millions
Sec. 1442—Research technical assistance, information and training of personnel:	
Fiscal year:	
1978	$17
1979	17
Sec. 1443(a)—Grants for State (public water system supervision) programs:	
Fiscal year:	
1978	35
1979	45
Sec. 1443(b)—Underground water source protection programs:	
Fiscal year:	
1978	10
1979	10
Sec. 3—Rural water survey:	
Fiscal year:	
1978	1
1979	1

In order to promote efficient State regulatory mechanisms, the Committee determined EPA should exercise its authority pursuant to section 1442 (mentioned above) by commissioning studies pertaining to costs of State compliance with national drinking water standards; the adequacy of drinking water supplies and the need for conserva-

tion measures. The Committee bill also provides grants for training (including postgraduate training) of personnel who operate State and local public drinking water systems.

The Committee deemed it necessary to authorize the establishment of an Emergency Assistance Program to provide technical assistance and grants to States and publicly owned water systems that have an emergency situation pertaining to drinking water which endangers public health, and with which the locality and State are unable to deal. The Committee authorized to be appropriated $8 million for each of the fiscal years 1978 and 1979 for purposes of this program.

Additionally, the Committee determined that several additional amendments were necessary to provide for more efficacious implementation of the Safe Drinking Water Act. First, the Committee bill would extend the deadline by which States must attain primary enforcement responsibility over its public drinking water systems until October 1, 1979. This provision would also perpetuate a State's eligibility for continuing public water system grants, provided it was making progress toward attaining primary enforcement responsibility.

Second, the Committee deemed it advisable to extend the time by which any State (identified by the Administrator) may submit an application showing it has adopted and will implement an underground injection control program. This provision is necessary to protect underground sources of water. The Committee also would extend the Administrator's authority to procure necessary water treatment chemicals which may be in short supply.

Furthermore, in order to assure uniform and effective application of the Act, the Committee reasserted the intention of the Safe Drinking Water Act that all Federal facilities and instrumentalities comply with all Federal, State and local requirements, substantive and procedural, pertaining to the provision of safe drinking water. This provision, of course, is not intended to, and would not, impair the sovereignty of any Indian lands or reservations protected by treaty. Nor would it authorize or require the Secretary of the Interior to do so indirectly in any trustee capacity.

Additionally, the committee determined that toxic contaminants in drinking water, and particularly the by-products of the reaction of chlorine and humic acids (trihalomethanes) and polychlorinated biphenyls, bear further scrutiny. Thus section 3 of the amendments directs the Administrator to study the effects of such contaminants on sources of drinking water. Again, these studies would not affect existing regulatory authorities or duties or pending litigation.

The Committee believes that the provisions of H.R. 6827 will help States implement more effective safe drinking water programs.

Committee Consideration

The Subcommittee on Health and the Environment held hearings on H.R. 6159 on April 22, 1977. Testimony was received from various witnesses and panels.

The Subcommittee met in open markup session on April 25, 1977, and by voice vote ordered reported a clean bill (H.R. 6827) in lieu of H.R. 6159, with amendments.

The full Committee on Interstate and Foreign Commerce met in open markup session on May 2, 1977, and with a quorum present, by voice vote, ordered reported to the House of Representatives H.R. 6827.

Inflation Impact Statement

The Committee believes the proposed legislation should have no significant inflationary impact on the Nations economy.

The reported bill continues existing safe drinking water programs for fiscal year 1978 and 1979. Although authorizations for fiscal years 1978 and 1979 are increased to a limited extent over the levels for fiscal year 1976–1977, this is primarily because the Committee believes it essential to provide greater assistance to States for the purpose of implementing public water system supervision programs.

The proposed legislation and the Act have a variety of mechanisms which will work to reduce or defer expenditures by private interest and governments over the life of the legislation. By allowing more time for States to obtain primary enforcement responsibility, the bill increases the availability of variance and exemption options to the States. Variance and exemption provisions of the Act afford public water systems more time to implement controls to meet drinking water standards. This should result in deferred and diffused capital expenditure.

Additionally, the thrust of the bill is to make implementation of the Act more efficient and thus less costly over the long run. To this end, studies pertaining to the most efficacious means of attaining drinking water standards and water supply and conservation techniques are mandated by the bill. Also the bill provides technical assistance and training grants to States to assist States in upgrading and making their public water systems more sophisticated and efficient. The Committee believes that short term federal assistance to States will generate a long term return in State control over its drinking water programs.

Any Federal expenditures for safe drinking water purposes will reap benefits for generation to come in terms of improved health derived by all consumers of drinking water. Drinking water contaminants often have an immediate effect on many people at great cost. Additionally, the costs engendered by the long term effects of water borne contaminants are potentially great. Whether long or short term, the costs generated by increased incidence of illness, human suffering, premature death, increased expenditures for health care and insurance and loss of tax revenue, far outweigh the costs or inflationary effect of continuing the programs mandated by the Act.

Program Oversight

The Committees principle oversight activties with respect to the implementation of the Safe Drinking Water Act have been conducted by the Subcommittee on Health and the Environment. Oversight and legislative hearings on proposed revisions to the Act were held on April 22, 1977. The Committee proposal is reflective of the findings of the Subcommittee.

The Committee has not received oversight reports from either its own Subcommittee on Oversight and Investigations or from the Committee on Government Operations.

Cost of Legislation

As reported by the Committee, H.R. 6827 provides for authorizations of appropriations for 2 fiscal years, 1978 and 1979, to carry out the provisions of the proposed legislation. The amounts authorized for each of the two fiscal years are set forth below.

	Millions
Fiscal year 1978	71
Fiscal year 1979	81

This new obligational authority may be compared with a fiscal year 1977 authorization of appropriations of $68.5 million and a fiscal year 1977 appropriation of $43.754 million for the same [1] programs.

Congressional Budget Office,
U.S. Congress,
Washington, D.C., May 16, 1977.

Hon. Harley O. Staggers,
Chairman, Committee on Interstate and Foreign Commerce,
Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6827, the Safe Drinking Water Amendments of 1977.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

James Blum
(For *Alice M. Rivlin*, Director).

Congressional Budget Office—Cost Estimate

May 16, 1977.

1. Bill number: H.R. 6827.
2. Bill title: Safe Drinking Water Amendments of 1977.
3. Bill status: As reported from the House Committee on Interstate and Foreign Commerce.
4. Bill purpose: The bill authorizes to be appropriated to the Environmental Protection Agency $17 million in fiscal years 1978 and 1979 for technical assistance, studies and training of personnel for public water system employment. In addition $45 million is authorized in fiscal year 1978 and $55 million in fiscal year 1979 for grants to state water drinking programs. Finally the bill authorizes $8 million for special emergency assistance and $1 million for a survey of rural drinking water supplies in each fiscal year 1978 and 1979.
5. Cost estimate:

[1] The authorization of appropriations for fiscal years 1978 and 1979 include $8 million for each year authorized pursuant to section 9 "Emergency Assistance," a new section.

[In millions of dollars]

Authorization level, fiscal year:	
1978	71.0
1979	81.0
1980	-----
1981	-----
1982	-----
Estimated cost, fiscal year:	
1978	30.2
1979	61.9
1980	42.9
1981	14.0
1982	3.0

The costs of this bill fall within budget function 300.

6. Basis of estimate: The authorization levels are those stated in the bill. The following weighted four-year spendout rate was applied to the total authorization level:

Year	Percent
1	43
2	40
3	13
4	4

7. Estimate comparison: none

8. Previous CBO estimate: A similar estimate was prepared for the Senate Safe Water Drinking Act Amendments of 1977 on May 13, 1977.

9. Estimate prepared by: Jim Manaro (225-7760)

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

COMMITTEE PROPOSAL

SECTION-BY-SECTION ANALYSIS OF SAFE DRINKING WATER AMENDMENTS

Section 1—Short title

Provides that this act may be cited as "Safe Drinking Water Amendments of 1977".

Section 2—Authorizations

This section of the bill authorizes appropriations for several programs under the Safe Drinking Water Act (that is title 14 of the Public Health Service Act); $17 million is authorized to be appropriated for each of the fiscal years 1978 and 1979 for studies, technical assistance and training of personnel relating to public water systems; $35 million is authorized to be appropriated for fiscal year 1978 and $45 million is authorized to be appropriated for fiscal year 1979 for grants to States to carry out public water supervision programs; $10 million is authorized to be appropriated for each of the fiscal years 1978 and 1979 for grants to States to carry out underground water source protection programs; $8 million is authorized to be appropriated for each of fiscal year 1978 and fiscal year 1979 for special emergency assistance; and $1 million is authorized to be appropriated for each of the fiscal years 1978 and 1979 for a survey of rural drinking water supplies. None of these authorizations are for research or demonstration activities under the Safe Drinking Water

Act. Authorizations for research are handled by the Committee on Science and Technology.

While the authorizations contained in the bill extend for 2 fiscal years only, the committee expressed its intent and commitment to continued support for State Safe Drinking Water programs. The committee recognizes that it will take several, perhaps many, years for States to fully meet the requirements of the act. During this time, the Committee hopes and expects that States will take reasonable steps to make their programs self-sustaining. But this cannot happen over night. Until such time as it is reasonable and practical for State programs to cover their entire costs, the Committee wishes to express its intention to provide continuing and adequate Federal financial and technical assistance to the States.

Section 3—Studies

This section requires the Administrator of the Environmental Protection Agency to submit a report and appropriate recommendations to Congress within 18 months of enactment of these amendments which identifies and analyzes: the costs to States and local jurisdictions of implementation of and compliance with interim and revised national primary drinking water regulations; alternative means of (including alternative treatment techniques for) compliance with these regulations; various methods by which public water systems might pay the costs of compliance with national primary drinking water regulations (including user charges, State or local taxes or subsidies, Federal grants, loans, etc.) and the relative merits of these approaches; present and projected sources of revenue for public water systems; and a comparison of costs paid by residential and industrial consumers in large, medium and small public water systems versus the costs paid by users of individually owned wells and the reasons for any differences in costs. The report shall analyze separately the application of the above criteria to public water systems serving small communities.

This section also directs the Administrator to submit a report to Congress within 18 months on the present and projected availability of an adequate and dependable supply of safe drinking water. This report shall analyze the future demand for drinking water and competing uses of water; availability of methods to conserve water and reduce demand; an assessment of present measures to assure supplies of safe drinking water; and problems (legal, financial, etc.) which must be resolved to assure future supplies of safe drinking water. Data compiled by the National Water Commission and others is to be utilized in making the study.

Section 1412(e)(1) of the existing act directs the Administrator to enter into an agreement with the National Academy of Sciences to conduct a study to determine the maximum safe contaminant levels in drinking water and to determine the existence of potentially harmful, but unmeasured contaminants in drinking water and to submit a report to Congress two years from the date of enactment. Section 3 of the amendments also authorizes continued assistance by NAS and states that new information from the NAS is to be reported to Congress every two years after the issuance of the original report.

This section also directs the Administrator to conduct studies on the reaction between humic acids and chlorine in drinking water and the effect of any reaction products on human health, including carcinogenic effects, if any. Additionally, this section directs the Administrator to study the degree of contamination, the effects, and methods of removing (or rendering harmless) PCB's and other toxic substances in drinking water sources, including assistance to public and nonprofit private groups to conduct such studies.

This latter point is important. One function of the Act should be to increase local, public involvement in recognizing and finding solutions to drinking water problems. This goal can be furthered by the Agency making special efforts to include citizens groups and other non-profit locally-based concerns as recipients of grants or contracts to carry out this provision.

Furthermore, the committee intends that the regulatory and enforcement authority or responsibility of the Agency under the act not be affected by the requirements contained in these study provisions. Nor is any litigation under the act to be affected by the committee's action in directing the Agency's further attention to these problems.

The section also includes a technical amendment to section 3(b) of the Safe Drinking Water Act.

The committee intends this section to stimulate the compilation of information useful to Congress and States and local jurisdictions pertaining to costs of implementing and enforcing primary drinking water standards and alternative ways to obtain this goal. The committee is aware of the economy of scale problems faced by public water system standards and alternative ways to obtain this goal. The committee is aware of the economy of scale problems faced by public water systems serving small communities and expects the studies commissioned by this section would be used as a resource for guidance to the Congress, the States and small communities. The committee notes that small communities and small public water systems that may have difficulty complying with the provisions of the act for economic or other reasons, would be benefited by section 5 of the bill, which extends the date by which a State may attain primary enforcement responsibility over its public water systems until September 30, 1979. Once a State attains primary enforcement responsibility it could grant a small public water system a variance (under section 1415 of the act) or an exemption (under section 1416 of the act) which could enable it to extend its compliance date for several years and thus enable it to devise a less costly treatment technique.

The committee also intends that the Environmental Protection Agency consult with States to the maximum extent possible concerning the criteria of the study and afford States an opportunity to submit written comments and analyses pertaining to their responsibilities and experiences.

The committee also intends that in compiling the study concerning costs of compliance with national primary drinking water regulations, EPA take care to segregate the cost of water treatment and the cost of water distribution in each of the analyses it is required to make. Variations in operating costs as opposed to actual rates should be identified.

In enacting section 3(e)(11) of the bill, the committee was particularly concerned with the highly toxic substance, polychlorinated biphenyl. As with many substances formerly deemed innocuous, polychlorinated biphenyls have been demonstrated to have carcinogenic and mutinogenic properties. The committee believes that other substances could share the dangerous propensities of PCB's and intends the Administrator exercise reasonable judgment (taking into account agency resources, manpower and agency priorities concerning ongoing studies) in determining other substances to study.

Section 4—Training

This section directs the Administrator to provide training and make grants for training (including postgraduate training) for personnel of State agencies which have primary enforcement responsibilities and personnel of local agencies which have duties delegated by States and for other personnel who manage or operate public water systems. Additionally, the Administrator is authorized to make grants for postgraduate training and grants to educational institutions to enable individuals to qualify for the above positions. Personnel of State and local agencies would be provided training at no cost, whereas others are to be charged a reasonable fee.

This section is intended to provide training grants and training for personnel and prospective personnel of States which have primary enforcement responsibility over its public water system and local agencies which have been assigned duties or receive contracts or grants from States with primary enforcement responsibility. The committee intends that in the allocation of resources for purposes of this section, the Administrator will give priority consideration to those States that have attained primary enforcement responsibility or have indicated they are in the process of attaining or intend to attain primary enforcement reesponsibility.

This section recognizes the need for providing training and technical assistance to small rural water systems where meeting safe drinking water standards may be difficult. The committee intends that in the allocation of resources for purposes of this section, the Administrator take into account the training needs of these rural water systems.

Section 5—Grants for State programs

Section 1443 of the existing act states that the Administrator cannot award a second public water system grant unless, during the one-year period from the date of the first grant to the State, the State has assumed and maintained primary enforcement responsibility for public water system within the State. Section 5 of these amendments would give the Administrator authority to waive that prohibition with respect to grants for fiscal years 1978 and 1979 if, in his judgment, the State is making a diligent effort to assume primary enforcement responsibility and has made significant progress toward same, and there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979. If a waiver is granted, the State could receive only 75 percent of its allotment for that fiscal year, unless it assumes primary enforcement responsibility for public water sys-

tems by the end of the fiscal year. At the beginning of fiscal year 1980, the aggregate of the amounts retained by the Administrator that is, those amounts denied to noncomplying States, would be reallocated to those States that have assumed primary enforcement responsibility by the beginning of fiscal year 1980. These reallocated sums may be carried over to fiscal year 1980 and utilized by complying States at that time.

The section also mandates that the Administrator approve or disapprove a State's application within 90 days after receipt of the application or not later than the first day of the fiscal year for which the grant application is made, whichever date occurs last.

The overriding purpose of this legislation is to protect the health and welfare of the people of this country by attempting to assure that our drinking water is safe. The committee recognizes the long term nature of the problem of eliminating all contaminants and suspected contaminants from all sources of drinking water. This legislation is by necessity an interim measure (due to the press of legislative business) and is designed primarily to extend through fiscal year 1979 the programs initiated by the Safe Drinking Water Act of 1974. The committee further intends that the Safe Drinking Water Act will be reviewed after a reasonable interval and that, at that time, the programs of the Act will be further extended to assist those States that have complied with the provisions of the Act. The committee fully intends that the Safe Drinking Water Act will be extended well beyond the period mandated in the bill in order that the goals of the act be attained.

Section 6—Extension of deadline for State underground injection control programs

Sections 1421-24 of the existing Act pertains to the protection of underground sources of drinking water. These sections provide that the Administrator shall list in the *Federal Register* those States which must implement an underground injection control program to protect sources of drinking water. The State has 270 days from the date the Administrator promulgates regulations implementing the program (or 270 days from the date the State is listed in the *Federal Register*), whichever is later, to submit an application for primary enforcement responsibility for protecting underground drinking water sources to the Administrator. The State's application must show that it has adopted an underground injection control program and that it will comply with the administrative procedures pertaining to the program. Section 6 of these Amendments authorizes the Administrator to extend, for good cause shown, the deadline for a State to submit its application for an additional 270 days.

The purpose of this section is to give States, which the Administrator determines must implement underground drinking water source protection programs, additional time to submit to the Administrator an application showing that the State has adopted such a program. The Administrator would be authorized to extend the deadline for submission of such application for 270 days upon a showing of good cause by the State that it could not meet the original deadline. The committee intends the Administrator to construe this section liberally in granting an extension upon the requisite showing.

In a related matter, the committee is aware of the forcefully expressed concerns of those who may be affected by EPA proposed regulations "State Underground Injection Control Programs" (41 Fed. Reg. 36737, August 31, 1976). The Committee believes that national underground injection control guidelines are essential for the protection of public health and for the prevention of contamination of present and potential future underground sources of drinking water. For this reason, the committee rejected an amendment which would have required these guidelines to be promulgated on a State-by-State basis by the Administrator.

On the other hand, the Committee recognizes the existence of varying geological, hydrological, and historic conditions in different States and in different areas within a State. The committee intends the Administrator's national guidelines would be sufficiently flexible to permit States to take account of these varying conditions in their undeground injection control programs. These varying conditions should be considered for the purpose of assuring protection of underground water sources, while preventing unnecessary interference with oil and gas production.

This authority for reasonable flexibility should not be construed to undermine or reduce the State's duty to assure protection of underground water sources. It means, for example, that detailed technical and procedural specifications of the guidelines may be relaxed or modified if the State shows that under special local conditions such specifications are not necessary to protect underground water resources.

Moreover, the committee expressed concern about the alleged adverse effect that the proposed guidelines could have upon oil and gas production. The committee takes no position on the factual validity or invalidity of these allegations. However, in the course of Subcommittee hearings, Representative Rogers specifically asked the EPA to direct its attention to these concerns, to indicate in the Agency's view whether or not they were valid, and, if so, to specify the action the Agency intended to take in response.

Speaking for the Agency, Mr. Victor Kimm, Director of the Water Supply Office responded,

> I believe that the regulations as they are finally involved will not constitute a serious proble for the oil and gas industry, although clearly there are some practices within their current operations that are environmentally and from a health perspective bad and contrary to * * * the act * * * (1977 Hearings, transcript, p. 36.)

The committee is encouraged by EPA's apparent recognition of problems with the proposed regulations. Mr. Kimm's answer appears to represent a proper interpretation of the act, that is requiring measures to eliminate practices which may reasonably be anticipated to endanger underground water sources, while not imposing unnecessary requirements which would impede or interfere with oil or gas production. The committee particularly urges the Agency to exercise due care in striking this proper balance in its guidelines with respect to stripper well production.

The committee intends to carefully monitor the reguatory process to assure that final EPA guideline will give appropriate weight to the foregoing concerns.

In no event, however, should these statements of committee intention be construed as requiring the Administrator to subordinate the concern for protection of underground water sources to that of energy production. In light of the drastic economic and social effects of the recent drought in the West and the resulting degradation of water quality, it remains a critical task to conserve and safeguard our Nation's present and future supplies of drinking water.

Section 7—Extension of authority to assure availability of chemicals used for water treatment

Section 1441 of the existing act provides a mechanism for the procurement of chemicals necessary to treat water in a public water system when those chemicals are not reasonably available to the operator of the system. The operator can apply to the Administrator for a certificate of need and if the certificate is issued, the President or his designee must issue an order requiring manufacturers or distributors to supply such chemicals. Presently, the act states a certificate of need or order cannot remain in effect for more than 1 year or after June 30, 1977 whichever occurs first. Section 7 of these Amendments would extend this authority until September 30, 1979.

Section 8—Federal agencies

This section subjects Federal agencies which have jurisdiction over a federally owned or maintained public water system or which are engaged in underground injection activities which endanger drinking water, to all Federal, State, and local requirements, substantive and procedural, and to administrative authorities and process and sanctions which pertain to the provision of safe drinking water. Thus, Federal facilities would have to comply with State and local requirements including recordkeeping or reporting requirements, permit requirements, and any other type of Federal, State, or local requirement. The section waives sovereign immunity of Federal agencies and subjects those agencies to Federal, State, and local judicial process. The section further provides that any State or local government could seek a judicial remedy against a Federal agency in a State or local court or seek an administrative remedy in regard to the provision of safe drinking water or an underground injection control program. Also the definition of "person" is expanded for purposes of the act to include States, municipalities, and Federal agencies and officers, employees and agents thereof.

In *Hancock* v. *Train*, 426 U.S. 167 (1976), the Supreme Court dealt with the issue of whether a State which has a federally approved implementation plan under the Clean Air Act which forbids an air contaminant source to operate without a State permit may require existing federally owned or operated installations to obtain such permit. The Court held that although section 118 of the Clean Air Act mandated compliance by federally owned or operated sources with air pollution control and abatement measures, the language of the section did not require Federal sources to comply with procedural requirements, such as the State permit requirement at issue. The court stated

> In view of the undoubted congressional awareness of the requirement of clear language to bind the United States, our conclusion is that with respect to subjecting federal installations to state permit requirements, the Clean Air Act does not satisfy the traditional requirement that such intention be evinced with satisfactory clarity. Should this nevertheless be the desire of Congress, it need only amend the Act to make its intention manifest. (citations omitted) *Id.* at 198.

In enacting section 8 of the Amendments, the committee wishes to avoid the pitfall encountered in the Clean Air Act. Thus the committee makes manifest its intention that federally owned or operated facilities comply with *all* Federal, State, and local requirements, of a substantive and procedural nature, which pertain to the provision of safe drinking water. By subjecting Federal facilities to State and local safe drinking water requirements, the committee explicitly waives the applicability of the doctrine of sovereign immunity to those sources. Furthermore, the committee intends that Federal agencies comply with State and local drinking water requirements and regulations which are more stringent than the national primary drinking water standards.

The committee does not intend that this section alter or amend laws, regulations, or treaties pertaining to the tribal water rights of American Indian tribes or the established relationship between the American Indian tribes and the United States in its special relationship as trustee to those tribes. Furthermore, the committee does not intend that this provision alter or amend any Federal or State statute, regulation, State enabling statute or treaty pertaining to American Indian tribal water systems and tribal water resource management activities. Sovereignty over Indian lands guaranteed by treaty or statute is in no way waived by this provision.

The committee does not intend that the words "Federal Agency" or "Agency of the Federal Government" be construed to mean or refer to any American Indian tribe or tribes, or to the Secretary of the Interior in his capacity as trustee of Indian lands. Additionally, by enacting section 8 of the bill, the committee does not intend to waive any aspect of sovereignty of Indians tribes guaranteed by treaty or statute with respect to activities referred to in section 1421(b)(1)(D)(ii) of the existing act.

Section 9—Emergency assistance

This section authorizes the Administrator to provide special assistance (including grants) to States or publicly owned water systems to deal with drinking water related emergencies which the State or locality is unable to remedy without emergency assistance. The Committee intends that the provisions of this section apply only in limited circumstances, such as those that resulted recently in the shutdown of the Louisville, Ky., sewage treatment plant and the consequent discharge of raw, untreated sewage into the Ohio River drinking water supplies of downstream communities. First, the drinking water contamination must constitute a serious threat to health. Next, the remedial measures must be clearly beyond the available technical, scientific, or financial resources of State and local entities. Also, the

instrumentality responsible for the emergency situation must be either unknown or clearly unable to pay remedial costs. The committee expects that if the Administrator subsequently determines that a particular entity or instrumentality caused or contributed to the emergency situation, the Administrator will make every reasonable effort to recover from that entity or instrumentality and remedial expenditures made.

Section 10—Technical and Conforming Amendments

This section includes minor technical and conforming amendments.

Agency Views

At the time of filing of this report, no agency views pertaining to this legislation had been received by the committee.

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Public Health Service Act

* * * * * * *

SAFETY OF PUBLIC WATER SYSTEMS

Part A—Definitions

DEFINITIONS

Sec. 1401. For purposes of this title:

(1) * * *

* * * * * * *

(12) The term "person" means an individual, corporation, company, association, partnership, State, [or] municipality, *or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency)*.

* * * * * * *

Part B—Public Water Systems

* * * * * * *

NATIONAL DRINKING WATER REGULATIONS

Sec. 1412. (a)(1) * * *

* * * * * * *

(e)(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title, *and revisions thereof reflecting new information which has become available since the most recent previous report shall be reported to the Congress each two years thereafter:* The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) is a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effetct on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

* * * * * * *

EXEMPTIONS

SEC. 1416. (a) * * *

* * * * * * *

(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

(A) compliance (including increments of progress) by the public water system with each [containment] *contaminant* level requirement and treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each [containment], *contaminant*, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preced-

ing sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

* * * * * * *

PART C—PRETECTION OF UNDERGROUND SOURCES OF DRINKING WATER

* * * * * * *

STATE PRIMARY ENFORCEMENT RESPONSIBILITIES

SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.

(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

* * * * * * *

PART E—GENERAL PROVISIONS

ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

SEC. 1441. (a) * * *

* * * * * * *

90-722 O - 82 - 19

(f) No certification of need or order issued under this section may remain in effect—

(1) for more than one year, or

(2) after [June 30, 1977,] *September 30, 1979*, whichever occurs first.

* * * * * * *

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 1442. (a) (1) * * *

(2)(*A*) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

(*B*) *The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation respecting drinking water which the Administrator determines (i) may reasonably be anticipated to endanger public health, and (ii) arises from unknown conditions or conditions which such entity is unable to remedy without such emergency assistance.*

(3)(*A*) The Administrator shall conduct studies, and make peirodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

(*B*) *Not later than eighteen months after the date of enactment of this subparagraph, the Administrator shall submit a report to Congress which identifies and analyzes—*

(i) the anticipated costs of compliance with interim and revised national primary drinking water regulations and the anticipated costs to States and units of local governments in implementing such regulations;

(ii) alternative methods of (including alternative treatment techniques for) compliance with such regulations;

(iii) methods of paying the costs of compliance by public water systems with national primary drinking water regulations, including user charges, State or local taxes or subsidies, Federal grants (including planning or construction grants, or both), loans, and loan guarantees, and other methods of assisting in paying the costs of such compliance;

(iv) the advantages and disadvantages of each of the methods referred to in clauses (ii) and (iii);

(v) the sources of revenue presently available (and projected to be available) to public water systems to meet current and future expenses; and

(vi) the costs of drinking water paid by residential and industrial consumers in a sample of large, medium, and small public water systems and of individually owned wells, and the reasons for any differences in such costs.

The report required by this subparagraph shall identify and analyze the items required in clauses (i) through (v) separately with respect

to public water systems serving small communities. The report required by this subparagraph shall include such recommendations as the Administrator deems appropriate.

* * * * * * *

(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, togeher with such recommendations for further review and corrective action as he deems appropriate.

(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

(11) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.

(b) In carrying out this title, the Administrator is authorized to—

(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

(C) to develop and expand the capability of progams of States and municipalities to carry out the purposes of this title other than by carrying out State programs of public water system supervision or underground water sources protection (as defined in section 1443 [(d)] (c))).

(c) Not later than eighteen months after the date of enactment of this subsection, the Administrator shall submit a report to Congress

on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data compiled by the National Water Commission and others shall be utilized to the extent possible.

(d) The Administrator shall—

(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies of units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

Reasonable fees may be charged for training provided under paragraph (1) (B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.

[c**]***(e) There are authorized to be appropriated to carry out the provisions of this section other than subsection (a) (2) (B) and provisions relating to research $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976;* **[**and**]** *$35,000,000 for the fiscal year ending June 30, 1977***[**.**]***; and $17,000,000 for each of the fiscal years 1978 and 1979. There are authorized to be appropriated to carry out subsection (a) (2) (B) $8,000,000 for each of the fiscal years 1978 and 1979.*

GRANTS FOR STATE PROGRAMS

SEC. 1443. (a) (1) * * *

* * * * * * *

(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under this paragraph may not exceed 75 per

centum of the allotment which the State would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of fiscal year 1980. At the beginning of the fiscal year 1980 the aggregate of such amounts retained by the Administrator and not awarded by the beginning of such fiscal year to the States to which such amounts were originally allotted shall be removed from the original allotment and reallotted to States which have assumed primary enforcement responsibility by the beginning of such fiscal year 1980. Such reallotted funds may be carried over to the fiscal year 1980.

(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section—

(A) within ninety days after receipt of such application, or

(B) not later than the first day of the fiscal year for which the grant application is made,

whichever is later.

[(5)] (7) For the purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, [and] $25,000,000 for the fiscal year ending June 30, 1977, *$35,000,000 for fiscal year 1978, and $45,000,000 for fiscal year 1979.*

(b)(1) * * *

* * * * * * *

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, [and] $7,500,000 for the fiscal year ending June 30, 1977, *and $10,000,000 for each of the fiscal years 1978 and 1979.*

* * * * * * *

FEDERAL AGENCIES

SEC. 1447. (a) Each Federal agency (1) having jurisdiction over any federally owned or maintained public water system [shall comply with all national primary drinking water regulations in effect under section 1412, and each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.] *or (2) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421 (d)(2) shall be subject to, and comply with, all Federal, State, and local requirements, administrative authorities, and process and sanctions respecting the provision of safe drinking water and respecting any underground injection program in the same manner, and to the same extent, as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits, and any other requirement whatsoever), (B) to the exercise of any Federal,*

State, or local administrative authority, and (C) to any process or sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply, notwithstanding any immunity of such agencies, under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty under this title with respect to any act or omission within the scope of his official duties.

* * * * * * *

CITIZEN'S CIVIL ACTION

SEC. 1449. (a) * * *

* * * * * * *

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this title or to seek any other relief. *Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State or local government from—*

(1) bringing any judicial action or obtaining any judicial remedy or sanction in any State or local court, or

(2) bringing any administrative action or obtaining any administrative remedy or sanction,

against any agency of the United States under State or local law respecting the provision of safe drinking water or respecting any underground injection control program. No action brought against any agency of the United States in any State or local court may be removed to a court of the United States under any authority of law. For provisions providing for application of certain requirements to such agencies in the same manner as to nongovernmental entities, see section 1447.

* * * * * * *

SECTION 3 OF THE SAFE DRINKING WATER ACT

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President [for transmittal] *and* to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; [and] $1,000,000 for the fiscal year ending June 30, 1977 *; and $1,000,000 for each of fiscal years 1978 and 1979.*

[From the Congressional Record, Nov. 1, 1977]

House Debate on S. 1528

Mr. Rogers. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 885) providing that upon the adoption of this resolution, the bill (S. 1528) entitled "An act to amend section 2 of the Safe Drinking Water Act (Public Law 93–523) to extend and increase authorizations provided for Public Water Systems" with the Senate amendments to the House amendment thereto be, and the same is hereby, taken from the Speaker's table to the end: First, that the Senate amendment numbered (2) be, and the same is hereby, agreed to; second, that the Senate amendment numbered (1) be, and the same is hereby, agreed to, with an amendment.

The Clerk read as follows:

H. Res. 885

Resolved, That upon the adoption of this resolution, the bill (S. 1528) entitled "An Act to amend Section 2 of the Safe Drinking Water Act (Public Law 93–523) to extend and increase authorizations provided for Public Water Systems" with the Senate amendments to the House amendment thereto be, and the same is hereby, taken from the Speaker's table to the end (1) that the Senate amendment numbered (2) be, and the same is hereby, agreed to; (2) that the Senate amendment numbered (1) be, and the same is hereby, agreed to with an amendment as follows:

Strike out the matter proposed to be inserted by Senate amendment numbered (1) and insert in lieu thereof the following:

"(B)(i) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number of States.

"(ii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed to disrupt a State underground injection control program only if it would be infeasible to comply with both such regulation and the State underground injection control program.

"(iii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed unnecessary only if, without such regulation, underground sources of drinking water will not be endangered by any underground injection."; and (3) that the Senate amendment numbered (3) be, and the same is hereby, agreed to with an amendment as follows:

Strike out the matter proposed to be inserted by Senate amendment numbered (3) and insert in lieu thereof the following:

AGENCY PERSONNEL

Sec. 11. (a) Subsection (a) of section 5108 of title 5, United States Code, is amended by striking out "an aggregate of 3,243" and inserting in lieu thereof "an aggregate of 3,293."

(b) To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

MONITORING OF UNREGULATED POLLUTANTS

Sec. 12. (a) Section 1412(e)(2) of the Public Health Service Act is amended by striking the word "and" at the end of clause (E) and by striking the period

at the end of clause (F) and inserting in lieu thereof: "; and", and by adding the following new clause at the end thereof: "(G) periodic assessments and evaluations of unregulated containments which may require continuous monitoring or regulation."

(b)(1) **Section 1414(c)** of such Act is amended by striking out "form and manner for giving such notice. Such notice" and inserting in lieu thereof "form, manner, and frequency for giving notice under this subsection. Notice under the first sentence of this subsection".

(2) **Section 1414(c)** is further amended by inserting: "The Administrator may also require the owner or operator of a public water system to give notice to the persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 1445(a)," after "issued by the system.".

(3) **Section 1414(c)** is further amended by striking out "thereunder" and inserting in lieu thereof "issued under this subsection".

(c) **Section 1445(a)** of such Act is amended by striking out "or" before "in administering", and by inserting before the period at the end thereof: ", in evaluating the health risks of unregulated contaminants, or in advising the public of such risks".

(d) **Section 1445(b)(1)** of such Act is amended by inserting "(A)" immediately after "person subject to", by striking out "or"after "1412" and inserting in lieu thereof ", (B) an", by striking out "(or person" and substituting the following: ", or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a), or person". and by striking out the parenthesis after "or other person" and substituting "referred to in clause (A), (B), or (C)".

EMERGENCY ASSISTANCE

SEC. 13. **Section 1442(a)(2)(B)** of the Public Health Service Act, as amended by section 9 of this Act, is further amended by striking out "respecting drinking water" and all that follows down through the period at the end thereof and substituting: "affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subparagraph shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other prgoram shall apply to amounts appropriated under this subpargraph.".

[Material pertaining to Clean Air Act technical and conforming amendments has been omitted.]

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. Rogers) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. Carter) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Rogers).

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to suspend the rules and pass S. 1528 as amended by the Senate, with an amendment.

The Safe Drinking Water Act Amendments of 1977 passed the House on July 12, 1977, and were sent to the Senate. The Senate passed the bill on August 5, 1977, with three amendments. I am offering today an amendment which addresses several issues. We have worked with

my colleagues across the aisle in formulating the components of the amendment. I appreciate their counsel and assistance.

As I stated on the floor of the House in July when we first considered this bill, it would extend authorities for several existing programs that are essential to assure the provision of safe drinking water for the citizens of this country. The bill also directs the Administrator of the Environmental Protection Agency to study alternative methods to provide and pay for safe drinking water and to study the effect of PCB's trihalomethanes, and other toxic substances on sources of drinking water. These studies should supplement, but not delay, current or future control efforts. The bill also would extend the deadline for the attainment of primacy by States that have not done so and would permit States in the process of attaining primacy to receive program grants for public water system supervision programs.

I am offering today an amendment. Two parts of the amendment perfect and correct amendments to the bill passed by the Senate on August 5, 1977. Two other parts of the amendment add new sections to the bill. The remaining part of the amendment is technical in nature.

First, we propose to amend the Senate amendment pertaining to underground injection control programs. **[Sec. 1412(b) SDWA]** This amendment would carefully define and limit the effect of the Senate amendment on underground injection control regulations. It would provide that the Administrator's underground injection control regulations must, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number of States. The amendment clearly defines what would constitute an unnecessary disruption of State programs and retains the basic and overriding requirement that the Administrator assure that underground drinking water sources—present and potential—will not be endangered by underground injection-related activities. This amendment has the support of the American Petroleum Institute and my colleagues on the other side of the aisle.

Second, we propose to amend the Senate amendment which would have authorized the appointment to the Environmental Protection Agency of 150 persons exempted from the civil service laws. Our amendment would reduce this amount to authorize the Administrator to appoint personnel to fill not more than 30 scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency; these positions would be exempted from the civil service laws. Additionally, the amendment would expand the civil service pool by 50, from 3,243 to 3,293. This expansion would be earmarked for EPA. This amendment has the approval of the Office of Management and Budget, the Civil Service Commission, the Post Office and Civil Service Committee, and my colleagues on the minority side.

The third facet of the amendment would amend the bill by adding new **section 12** which would authorize the Administrator to require periodic assessment and evaluation of unregulated contaminants of drinking water which may require continuous monitoring or regulation. **[Sec. 1412(e), 1414(c), 1445(a), (b) SDWA]** Presently the act may be read to authorize the Administrator only to require moni-

toring of regulated pollutants—or those which he intends to regulate—those pollutants for which a maximum contaminant level has been set or those pollutants which require a treatment technique. New **section 12** would clarify that the Administrator has the authority to require monitoring of unregulated pollutants which he deems potentially dangerous to health. The amendment would also permit the Administrator to require the owner or operator of the public water system to give notice to persons served by it—or other public notice—of contaminant levels of unregulated pollutants subject to monitoring requirements.

Finally, the amendment would amend **section 1442(a)** of the Public Health Service Act by authorizing the Administrator to provide technical assistance and make grants to State or publicly owned water systems to assist in responding to emergency situations affecting public water systems. Grants under this section would be used only to prevent, limit or mitigate danger to public health caused by an emergency and would be used only to initiate action that would not otherwise be taken without such emergency assistance. The Administrator would be authorized to implement this program in conjunction with other programs of assistance for environmental emergencies which he is authorized to carry out under any other provision of law.

The amendment also makes two essentially technical changes. First, the amendment deletes the $16 million research and development authorization that was contained in the Senate-passed bill. That amount has been separately authorized under the recent conference bill on EPA's research and development authorizations. Second, the amendment contains certain technical and conforming amendments to the Clean Air Act. These have been reviewed by all members of the conference committee—Senate and House, majority and minority—and have been found not to be objectionable in any respect.

For further elaboration of the amendment to S. 1528, as amended by the Senate. I am submitting a summary and statement of intent for the Record.

Mr. Speaker, I urge my colleagues to vote for this legislation. It would permit EPA to further its work in assuring that safe drinking water is provided and would enhance its mission significantly.

The material follows:

SUMMARY AND STATEMENT OF INTENT—AMENDMENTS TO THE SAFE DRINKING WATER AND CLEAN AIR ACTS

I. SAFE DRINKING WATER

Underground injection control

The House amendment makes several important changes in the Senate amendment on underground injection. The Senate amendment would have required the Administrator of EPA to review each State's existing underground injection control program prior to establishing national regulations under section 1421. The House amendment deletes this requirement. Promulgation of these national regulations has already been unduly delayed and the Senate requirement would have resulted in even greater delay.

Second, the Senate amendment would have prohibited the Administrator from duplicating State requirements. The House amendment deletes this prohibition. If some State requirements are effective to protect underground water sources, then these may form the partial basis of national underground source water protection requirements.

Third, the Senate amendment was vague and contained no definition of the term "unnecessarily disrupt." The House amendment defines these terms explicitly in a way which narrows the impact of the amendment and prevents unnecessary and improper legal challenges to the Administrator's regulations. In specific, the definition of the term "disrupt" in the House amendment limits the prohibition to those national requirements which are so inconsistent with specific requirements being carried out in a number of States that both the national and State requirements cannot be met. If both State and national requirements can be met, even at substantially greater cost, then the national requirements could not be deemed disruptive.

Moreover, the definition of "unnecessary" makes clear that a disruptive national regulation would be prohibited only if it were also "unnecessary". The burden of proof, of course, would be on the State which wished to challenge the regulation as both "disruptive" and "unnecessary" under this provision. Furthermore, this definition is consistent with, and reinforces, the provision contained in section 1421(b)(3)(C) that nothing in the entire section should be construed to override the Administrator's duty to protect underground water from any potential endangerment relating to underground injection.

Finally, the directive nature of this provision is underscored by including the words "to the extent feasible" in new section 1421(b)(3)(B)(i). These words were not included in the Senate amendment.

Studies

The House amendment contains certain provisions directing studies be undertaken under the Act. The Senate amendment contained identical provisions. In this respect, it is important to restate and emphasize the continued importance of two excerpts from the House Commerce Committee's report on this bill pertaining to these studies (*H. Rep. No. 95–338*, May 16, 1977). At page 8, the report emphasizes that these studies should be conducted with the assistance and involvement of public and nonprofit private groups. "One function of the Act should be to increase local, public involvement in recognizing and finding solutions of drinking water problems. This goal can be furthered by the Agency making special efforts to include citizens groups and other non-profit locally-based concerns as recipients of grants or contracts" to plan and execute the studies. This statement of Committee intent is underlined and supported by the recent recommendation of the National Academy of Science that "EPA's current means of awarding grants and contracts should be used to a greater extent to solicit or sponsor citizen group research and public education relevant to regulatory issues." [NAS, Perspectives on Technical Information for Environmental Protection Vol. I, (1977), p. 49].

The House Committee report also explains that these studies are not meant to delay or otherwise affect regulatory or enforcement actions by EPA. Much too much delay has resulted already and these studies should supplement, rather than supplant, effective regulatory action.

Monitoring unregulated pollutants

While this provision is specifically intended for application in the case of sodium, where heart patients need to be aware of the sodium content of water for dietary purpose, the amendment is not limited by its terms or intent to that single pollutant. Furthermore, nothing in this amendment should be construed to alter pre-existing public notice requirements for regulated contaminants.

Supergrade amendment

Section 11 is a revision of the Senate amendment which would have provided the Administrator of EPA with special authority to appoint 150 additional personnel in the Agency. There have been extensive discussions and negotiations between the Civil Service Commission, OMB, and the Agency to determine the most critical needs for additional personnel and the most effective way of providing appointment authorities to meet those needs. The supergrade amendment is the result of those discussions.

It provides for an increase of 50 positions in the government-wide pool of GS–16, 17 and 18 positions allocated to the Executive branch agencies by the Civil Service Commission with the understanding that this increase will be allocated

to EPA. In addition, the amendment provides the Administrator with authority to appoint 30 scientific, engineering, professional, legal and administrative personnel without regard to the competitive appointment and pay provision of title 5, United States Code.

The Administrator may pay such personnel up to the maximum rate payable for GS–18 (currently $47,500). The combination of these two authorities provides EPA with 80 additional supergrade and equivalent positions. The Post Office and Civil Service Committee concurs in this amendment.

* * * * * * *

[Material pertaining to Clean Air Act technical and conforming amendments has been omitted.]

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

It is my understanding that the amendment relating to the water recycling program has been stricken from this bill; is that correct?

Mr. ROGERS. It is not in here because it is in the other bill. The gentleman is correct.

Mr. JOHNSON of Colorado. It was not the intention of the managers to eliminate this because of a feeling that it should not be there but because it was included somewhere else for the EPA?

Mr. ROGERS. The gentleman is entirely correct.

Mr. JOHNSON of Colorado. I thank the gentleman.

Mr. ROGER. Mr. Speaker, I reserve the remainder of my time.

Mr. CARTER. Mr. Speaker, I support this legislation. I think the chairman has explained it quite well.

Mr. Speaker, I support this legislation, the safe drinking water amendments, as modified by the House amendment to the Senate passed bill—S. 1528.

Mr. Speaker, most of the provisions in this measure have already been approved by the House when it passed H.R. 6827 by voice vote on July 12, of this year.

The new provisions, which I support, include the following:

A provision to strike the Senate amendment authorizing $16 million for research and development, because the EPA research and development conference bill already contains an identical authorization.

Provisions to clarify and amplify the intent of the Senate amendment on underground injection control programs to avoid unnecessary disruption of State underground injection control programs.

A provision which reduces the number of additional personnel for EPA from 150 to 80.

Authority for the Administrator of EPA to require periodic assessment and evaluation of unregulated contaminants which may require continuous monitoring or regulation, such as sodium.

Technical and conforming amendments to the Clean Air Act.

And an amendment to section 9 of the House-passed bill which authorizes emergency assistance. The amendment would not change the basic thrust of this authority, but would permit the Administrator to carry it out in conjunction with any other emergency program for environmental assistance. Moreover, the amendment states that—

No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.

This is to prevent any diminution of the drinking water emergency authority as a result of the appropriations process.

Mr. Speaker, this emergency assistance authority should be of particular interest to my colleagues and their constituents.

This section authorizes the Administrator of EPA to provide grants and technical assistance to States or publicly owned water systems in order to assist in responding to any emergency situation affecting public water systems; $8 million is authorized for fiscal year 1978 and $8 million is authorized for fiscal year 1979 to carry out this important authority.

Recognition of the need for such an emergency authority grew out of the unfortunate circumstances last summer in Louisville, Ky., which resulted in the shutdown of the sewage treatment plant and the consequent discharge of raw, untreated sewage into the Ohio River drinking water supplies of downstream communities.

Certainly we would hope that the number of such emergency situations in the future is small, but should they occur we have provided this emergency assistance authority to help address the problem.

Another section of particular interest to me is the section of the bill which directs the Administrator of EPA to undertake certain studies on drinking water contaminants. **[Sec. 3(e); Sec. 1442(a) SDWA]**

During the course of our subcommittee hearings we determined that the by-products of the reaction of chlorine and humic acids—known as "trihalomethanes"—merit further study.

Therefore, the legislation directs the Administrator of EPA to study the reaction between humic acids and chlorine in drinking water and the effect of any reaction products on human health, including any carcinogenic effects.

This is a very important study and I look forward to receiving the results.

And, although there is no separate line item authorization, the committee would anticipate that approximately $2 million would be necessary to conduct a thorough study of this matter.

Mr. Speaker, this legislation contains many other important provisions which are designed to provide safe drinking water systems for the people of this country. There is one other provision which I would like to mention, and that is the training authority.

The legislation directs the Administrator of EPA to provide training for personnel of State agencies which have primary enforcement responsibilities and for personnel of local agencies. **[Sec. 4; Sec. 1442 SDWA]**

Moreover the bill recognizes the unique needs of rural water systems and directs the Administrator to take into account the training needs of such systems in making assistance available.

Mr. Speaker, I strongly support this training authority because it is sorely needed in many areas of our country. This assistance is needed to insure that safe drinking water systems are properly established and effectively enforced.

The bill authorizes a total of $71 million for fiscal year 1978 and $81 million for fiscal year 1979.

A question has been raised about the relationship between new **section 1421(b)(3) (A)** and **(B)** under this amendment. **[Sec. 6]** Basically, subparagraph (B) places some limits on the type of na-

tional regulations which the Administrator may promulgate under **section 1421.** Subparagraph (A) says, in effect, that a State may deviate from the national requirements which are promulgated by the Administrator, if there is compelling local reason to do so and if the State's program is at least as effective as the national regulations in protecting underground source water. Both of these provisions, however, are subject to subparagraph (C), which makes clear that the Administrator's regulations and the responding State's programs must assure that underground source water will not be endangered.

In conclusion—I believe that these amendments are needed to help State implement more effective safe drinking water programs—and I urge favorable consideration of this measure.

I would like to ask a question or two of the gentleman from Florida, if I may have his attention.

For the study of the reaction of humic acid and chlorine, I asked that $2 million be directed in this matter. That will be included in this legislation; am I correct?

Mr. ROGERS. If the gentleman will yield, yes, those studies are included in this legislation.

Mr. CARTER. And $8 million.

Mr. ROGERS. For emergencies.

Mr. CARTER. In case of accidents?

Mr. ROGERS. Crises.

Mr. CARTER. Pollution in certain areas?

Mr. ROGERS. The gentleman is correct.

Mr. CARTER. With that understanding, certainly I support this legislation and urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

Mr. STAGGERS. Mr. Speaker, the Safe Drinking Water Act Amendments of 1977 passed the House in July and passed the Senate in August with three amendments to the House bill. Today we will consider again this most essential bill. We are offering an amendment to the bill, which addresses several legislative concerns. This amendment has the approval of our distinguished minority.

S. 1528 is essential because it would continue existing Safe Drinking Water Act programs and provide for the creation of new programs which would assist in the provision of safe drinking water for all sources. The bill would authorize a study of the methods of compliance with safe drinking water standards and a study of various toxic pollutants of drinking water. It would provide for additional time within which the State must attain primary enforcement responsibility and continue to receive public water systems supervision program grants. Additionally, the bill would provide a mechanism whereby emergency assistance could be provided to municipalities or drinking water systems that faced a crisis situation. The bill also directs the Administrator of EPA to provide training and make grants for training of personnel of State agencies so as to assist States in upgrading their public water systems.

Mr. Speaker, I urge my colleagues to support the passage of this bill which will continue to expand the efforts to provide safe drinking water for all Americans.

Mr. PICKLE. Mr. Speaker, I was happy to hear as part of your motion to suspend the rules, that you are offering an amendment to the bill to include provisions that will clarify that to the extent feasible EPA would have to avoid promulgating requirements that would unnecessarily disrupt State underground injection control programs. [Sec. 6(b); Sec. 1421(b) SDWA] As you know, we had a colloquy on the floor of this House on November 19, 1974 when the Safe Drinking Water Act was first being debated. Our conclusion on that day was that the EPA should do nothing to lower, or stop, oil and gas production under State regulation unless drinking water was being contaminated.

Texas began regulation of the oil and gas industry early. The Texas Railroad Commission was designated the State agency for administering laws relating to oil and gas operations in 1919. As technology developed and as the industry grew, effective regulations were made to protect fresh water. For this reason, you were willing to insert in the Record a letter from Russell Train, the EPA head, saying that Texas and Kansas oil and gas regulatory agencies did a good job of regulating oil and gas related underground injections, and saying that these two States would comply with the acts as written.

However, despite these clear statements made by Mr. Train when the regulation writers cranked up at EPA they said that salt water injection to increase production cannot be done unless there is a complete well history for every well, active and abandoned. in a half-mile radius. This record would even go to the technique used in plugging the inactive well, the casing used and all the other facts about the well.

When we tried to apply these regulations to the greatest oil field ever discovered in the continental U.S.A.—the east Texas oil field—it was found impossible to implement. Subsequently changes were made by EPA in the proposed regulations, but the point that I want to make is that EPA was again overstepping its statutory authority in its zeal to regulate. These regulations interfere with oil production and cause much uncertainty to the industry. None of this would be important if they were in fact protecting drinking water, but in this same east Texas oil field in the last 30-plus years, there has been only one incident of bad drinking water. It developed that the reason for this was that the individual who drilled the water well had drilled it incorrectly and when another well was put down within 100 feet the water was perfect.

I would now like to reaffirm that there shall be no EPA regulations interfering with or impeding oil and gas production unless they are essential to protect drinking water. Sometimes I wonder whether we are not strangling our citizens in redtape under the guise of protecting them. Many times our State agencies are much better qualified to deal with these problems. Again. EPA should avoid promulgating requirements that will unnecessarily disrupt State underground injection control programs which mean more energy.

Mr. MAGUIRE. Mr. Speaker, I have read the remarks of the Chairman of the Subcommittee on Health and Environment concerning the

Safe Drinking Water Act Amendments and the technical and conforming changes to the Clean Air Act Amendments of 1977. I wish to note for the record that I concur in the gentleman's interpretation of the intent of the conferees on various points. In particular, I believe that it was indeed the intent of the conferees that case-by-case BACT review, required under section 165 of the act as amended, be effective immediately upon enactment.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. Rogers) that the House suspend the rules and agree to the resolution (H. Res. 885).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

[From the Congressional Record, July 12, 1977]

HOUSE DEBATE ON H.R. 6827

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6827) to amend the Public Health Service Act to extend certain authorities and authorize appropriations for certain fiscal years for purposes of providing assistance to States with respect to safe drinking water, and for other purposes, as amended.

The Clerk read as follows: **[H.R. 6827; see text, pages 256–267]**

The SPEAKER pro tempore. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. Rogers) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. Carter) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Rogers).

Mr. ROGERS. Mr. Speaker, I rise in support of enactment of H.R. 6827, the Safe Drinking Water Act Amendments of 1977, with an amendment.

Mr. Speaker, the passage of the Safe Drinking Water Act in 1974, heralded a new consciousness by the Congress and by the citizens of this land that many of our public water systems contain harmful pollutants of varied description. In our effort to eradicate typhus, diphtheria, and other diseases caused by waterborne bacteria, we have treated our drinking water with chlorine. Available evidence overwhelmingly suggests that chlorine is contributing to the formation of cancer-causing substances in our drinking water. Moreover, during the past several decades, thousands of chemicals have been introduced into commerce and many of these substances find their way back into our sources of drinking water.

The Safe Drinking Water Act has provided a framework for combating pollution in our drinking water. The act directed the Administrator to promulgate national interim drinking water standards and to promulgate regulations pertaining to the monitoring of public

90-224 O - 82 - 20

notification procedures if violations are found. **[Sec. 1412, sec. 1414 (c) SDWA]** National Interim Primary Drinking Water regulations were promulgated by EPA on December 24, 1975. These regulations establish maximum contaminant levels for specified microbiological and chemical contaminants and for turbidity.

They also establish minimum monitoring requirements, contain requirements for public notification in the event of violation of the regulations, and provide for appropriate recordkeeping and reporting by public water systems. The effective date of these regulations is July 24, 1977. The critical need for the protection of aquifers which are the sale source of water for consumers was also recognized by the legislation. Regulations protecting underground sources of drinking water, though overdue, are to be promulgated in the near future. Additionally, the legislation commissioned EPA to undertake studies to examine the multifaceted drinking water contamination problem. **[Sec. 1442(a) SDWA]** Many of these studies have provided a wealth of information about water contaminants. Of particular interest have been the studies on organics in drinking water.

At this date, some 3 years after enactment of the 1974 act, many States, including Mississippi, Louisiana, and Nebraska, to name a few, have fulfilled the requirements for attaining primary enforcement responsibility. Many others have indicated they are likely to do so in the near term. The act has contributed to a heightened public awareness of the need for uncontaminated drinking water and public impatience with sources deemed potentially hazardous.

Additionally, advances have been made in the field of innovative treatment techniques. A prime example of this is the recently implemented innovative water treatment technique at Duluth, Minn., which has enabled the Duluth water system to remove all but a fraction of the asbestos-like fibers found in its raw water. The Environmental Protection Agency provided technical and financial assistance in the promotion, planning, and construction of a pilot plant to remove the fibers from Duluth's water. A full-time engineer is employed to analyze the performance of the plant because EPA believes this prototype technology could be applied to other areas of the country where filtration techniques may be required.

A particularly significant development in the brief history of the Safe Drinking Water Act occurred last year. The emergency authority contained in the act was invoked for the first time. **[Sec. 1431 SDWA]** The FMC Corp., located in South Charleston, W. Va., had discharged significant amounts of carbon tetrachloride into the Kanaroha River on at least 28 separate occasions since 1974. The Kanaroha River joins the Ohio River above Cincinnati; combined, the rivers provide drinking water for about 1.8 million people, including the city of Cincinnati. During February of 1976, the carbon tetrachloride level in the Ohio and Kanaroha reached levels of up to 190 parts per billion in the raw water. While EPA has estimated that a safe subchronic exposure level for the substance is 2 ppb, the National Academy of Sciences has stated that there may be no safe threshold level for carbon tetrachloride. Carbon tetrachloride is highly toxic to man and is a proven carcinogen in animals. It thus also poses a significant risk of inducing cancer in humans at any level.

FMC admitted spilling 5,000 pounds of carbon tetrachloride into the Kanawha on February 24, 1976, but denied an allegation that it had spilled an additional 70 tons. EPA petitioned the Federal District Court to invoke **section 1431** of the Safe Drinking Water Act to enjoin FMC from further contamination of the two rivers. **Section 1431** states the Administrator may seek to prevent or abate the contamination of drinking water by substances which may pose an imminent and substantial endangerment to the health of persons. The District Court granted EPA's motion for a preliminary injunction and closed down FMC temporarily. Subsequently, EPA and FMC negotiated a court approved agreement which permitted FMC to begin operations and required FMC to adhere to strict monitoring procedures—with EPA verification—and implement environmentally sound waste disposal techniques.

Another commendable example of EPA's effective administration of the act is highlighted by a memo from the office of William G. Milliken, Governor of Michigan, pertaining to State assumption of primary enforcement responsibility. Part of the memo deals with EPA's effort to formulate an open and cooperative relationship with States:

> Initially, it appeared that the Environmental Protection Agency would administer this program in a similar manner as other federal agencies do with collaborative federal-state programs, wherein the states would have little input into regulations, guidelines and program strategy. For about the first six months this was true in large measure however, beginning in about June 1975, there was an obvious major change in policy. The National Drinking Water Advisory Council was having input into the decision making process of the Administrator, and representatives of state water supply programs were invited to be members of Agency task forces and advisory committees. This is not to say that the states views were accepted carte blanche, however draft regulations and proposed guidelines were turned around prior to promulgation to the end that the more objectionable features were modified.

Though the 1974 act has engendered progress toward the attainment of the goal of providing safe drinking water, much remains to be done, and in fact, there have been some rather conspicuous failings on the part of some States and EPA:

A few States have indicated that they will not attain primary enforcement responsibility.

Even though the 1962 Public Health Service drinking water standards indicated a need for the promulgation of chlorinated organics regulations. EPA has fallen even to propose such regulations.

EPA has not promulgated final underground injection control regulations, though the 1974 act directed it to do so within a year from the date of enactment of the act. **[Sec. 1421(a) SDWA]**

According to the National Academy of Sciences and the Drinking Water Advisory Council, certain interim drinking water regulations are inadequate. According to a study by the National Academy of Sciences entitled "Drinking Water and Health" (1977), the standard for lead may not be adequate; the coliform standard for water reclaimed directly from waste water is not adequate; and the current arsenic standard "provides only a meager margin of safety." Substantial and serious doubts have been shed on the adequacy of other standards.

According to the NAS study, there is evidence of a sufficiently compelling nature that water softening contributes to cardiovascular disease. In the United States, cardiovascular diseases account for more than one million deaths each year. The report states that if suspected water factors are casually implicated, optimal conditioning of drinking water could reduce this annual cardiovascular disease mortality rate by as much as 15 percent. Too little attention appears to have been paid by EPA, HEW, and the States to this concern.

The NAS report also correlates sodium intake with hypertension and recommends "knowledge of the sodium ion content of water and maintenance of it at the lowest practicable concentration"—NAS, 1977 at 34). EPA has not set standards or imposed monitoring or public notice requirements for sodium in drinking water.

Many of our sources of drinking water are now plagued by contaminants more ubiquitous and lethal and less susceptible for treatment than those of generations past. Not too many years ago, chlorine was viewed as a panacea for waterborne bacteria. Unfortunately we did not have the prescience to know that when chlorine is used to treat raw water, chlorine and certain organic substances such as humic acids, react to form chloroform and other known and suspected carcinogens. The FDA has found that chloroform induces cancer in rats. The NAS has determined that there is no safe threshold for organics in drinking water.

The National Reconnaissance Survey of the drinking water systems of 79 cities, released by the Environmental Protection Agency in 1975, found traces of one or more of six volatile organic substances in the chlorinated water of every one of the 79 cities studied. Four of these volatile organics are formed during the process of chlorination. Additionally, 35 organic compounds were found in the tap water in Miami, Fla.; 13 organic compounds were found in the tap water of Seattle, Wash.; 36 organic compounds were found in the tap water of Philadelphia, Pa.; and 36 organic compounds were found in the tap water of Cincinnati, Ohio. Miami led the survey in the chloroform count with 311 parts per billion—several of the 79 cities registered in excess of 100 parts per billion.

A recent article in the Washington Post cited several studies that reported a direct correlation between cancer mortality rates and the chlorination of water. One study found that the treated drinking water supply for most of northern Virginia has levels of chloroform that are more than double the highest safety threshold suggested by the EPA. New tests of the drinking water from the Occoquan Reservoir reveal a chloroform level of 232.6 parts per billion of water which is considerably higher than EPA's suggested maximum of 100 parts per billion.

Last summer, the Philadelphia Bulletin reported about the high incidence of cancer among employees of DuPont's Belle plant on the Kanawha River near Charleston, W. Va. Subsequent oversight hearings were held. Among the many environmental hazards caused by the plant was the extraction of plant drinking water from the Kanawha River about a half-mile downstream from where the company dumps its wastes. The EPA found that highly toxic and carcinogenic nitrosamines were being made in a small production process at the Belle plant and were contaminating the plant's effluent going into the Kanawha River.

The Belle plant has also suffered a number of chemical leaks, including three instances in December 1975 when the plant drinking water was contaminated with highly toxic aniline compounds. On one occasion 1,100 pounds of aniline leaked into the Kanawha River.

The Bulletin article related that there have been 5 cases of cancer at the Belle plant; 2 malignant melanomas of the eye; an epithelioma on the surface of an employee's eye; a nasal sinus cancer and a facial cancer. The company's statisticians counted 144 cancer cases among male wage earners between 1956 and 1974, compared to the 118 predicted on the basis of companywide figures. The high incidence of cancer at the Belle plant is no mere coincidence. It appears to be firmly grounded in the employees' constant exposure to carcinogens in the plant's drinking water and air.

The city of New Orleans, La., has been found to have the third highest cancer mortality rate of all counties in the United States—a 32-percent higher total cancer mortality rate than the national average. Public drinking water supplies are routinely contaminated with carcinogenic substances from industrial and municipal discharges, accidental spills, runoff from agricultural and urban areas, and from the chlorination process at water treatment plants. Carcinogens and other potentially toxic organic chemicals are not removed by standard water processes and are thus contaminants of tap water.

An EPA study entitled "New Orleans Area Water Supply Study"—November 1974, indicated the presence of 66 organic chemicals in the three water supply systems sampled in New Orleans. To date, 112 chemicals have been identified in New Orleans' drinking water and, according to the director of the New Orleans Sewer and Water Board, the final tally may exceed 900. Several of the chemical compounds found in the water supplies, particularly chloroform and carbon tetrachloride, are known animal carcinogens.

Again, the relationship between the presence of carcinogenic elements in the New Orleans water system and the high incidence of cancer gives grave cause for concern. In light of the National Reconnaissance Survey and later data, the concern is a nationwide one.

Drinking water related health problems are not limited to chemical contamination. Pennsylvania, for example, has had severe water-borne disease outbreaks. In 1973, 49 cases of water-borne illness were reported, 179 cases of shigellosis--dysentery bacilli—and 323 cases of gastroenteritis. In 1974, 600 cases of shigellosis and 102 cases of gastroenteritis were reported. In 1975, 5,225 cases of gastroenteritis were reported from a single incident of water contamination in Sewickley, Pa. In fact, Pennsylvania has led the Nation in water-borne disease outbreaks; yet it has refused to accept primary enforcement responsibility.

Another problem faced by water systems is the microbial contamination of water derived from the "water reuse" process. The increased consumption of water for an ever-growing multitude of needs, has placed the "water reuse" concept in a new light. An HEW report entitled "Human Health and the Environment—Some Research Needs" states in regard to water reuse":

> A large amount of sewage-contaminated water in major streams in the United States already is being returned directly to the customer after water treatment. The health implications of these practices should be subject to continued evalua-

tion. The widespread use of synthetically-produced chemical compounds, including pesticides, require that constant surveillance be maintained over aquifers and surface waters which represent the source of water for many Americans. Surveys have shown that as high as 50 percent of these systems are contaminated with microbial agents and/or chemicals that pose a potential health risk to the users. (at 100–101)

Contamination of underground sources of drinking water merits our close attention. One third of the public water systems in this country serving 100 million people obtain water from underground sources. Some 95 percent of all rural domestic supplies depend upon ground water sources. According to the HEW study "Human Health and the Environment," cited above.

Ground water pollution is rapidly increasing from sources such as domestic and industrial waste, sanitary landfills, wastewater sludges and effluents, feedlot wastes, fertilizers and agricultural chemicals, mine drainage, subsurface disposal of oil-field brines, seepage from septic tanks and storage transmission facilities, and individual on-site waste water disposal systems. The identity of potential pollutants from these sources, which can include a broad spectrum of physical, inorganic, organic, radiologic and bacteriologic materials, is largely unknown and uncharacterized at present. (at 97).

The drinking water problems facing us today are many and diverse. The Western part of our country is experiencing one of the most severe droughts in recent history. There are indications that the East, too, is in the throes of a drought. A drought depletes the water table in the affected area. One adverse effect of this phenomenon is to diminish or eliminate the water supply of wells. Another is the possible contamination of underground sources of water and resultant deterioration of water quality.

Two other important problems confronting many sources of drinking water are contamination from industrial waste disposal through deep well injection and leachate from pits, ponds, and lagoons. Here again, there seems to be a tendency to act first and determine environmental ramifications later. Many industries have disposed of toxic chemicals and other wastes through deep well injection or disposal in pits, ponds, and lagoons; often little regard has been given to water source contamination. A recent EPA study shows that in 46 of 48 land disposal sites tested, hazardous wastes have leaked into ground water supplies.

It is obvious that much work remains to be done in order to assure the provision of safe drinking water to all consumers. We must set new goals and objectives. The first order of business should be for EPA to update the national drinking water standards in light of the findings of the recent report of the National Academy of Sciences. In his recent environmental policy statement, President Carter recognized the necessity of focusing on the problems of organics in drinking water. The President recommended the promulgation of a national standard for organics. The President's Environmental Message of May 23, 1977, stated:

There is increasing evidence that chlorinated hydrocarbons found in drinking water supplies may be cancer-causing. The President has instructed EPA to develop as soon as feasible, standards to control such carcinogens as well as other toxic pollutants.

I agree and I believe the House would also agree that this should be done promptly.

EPA must also promulgate final underground injection control regulations. These regulations must consider our Nation's need for the production of oil and gas. But above all—particularly in light of the lessons we are learning from this year's drought—they must adequately protect and preserve precious present and future underground sources of drinking water. These regulations have been hanging fire for too long; EPA must act quickly and efficiently to guide those in the business of oil and gas production and to assure needed groundwater protection.

Our next goal should be to maximize a basic premise of the 1974 act: to formulate a Federal-State partnership in the implementation of the act. The act envisions State enforcement of federally mandated standards. But there should also be a dialog between EPA and the States forged in the spirit of cooperation. State input and involvement in this relationship is crucial to effective administration of the act, and to the assurance of effective compliance with the standards.

Finally, we should attempt to determine how best to finance compliance with the national safe drinking water standards. A few States, especially those with small water systems, foresee problems in meeting the standards. We should devote our energy to finding ways to help States finance safe drinking water systems.

According to EPA, there are today 58 million people whose water supply is unprotected against contamination. In this age of sophisticated technology, manned flights to the Moon and instrument landings on Mars, it is astounding that our drinking water is plagued by contamination, be it bacterial, viral, radiologic, or chemical. The Safe Drinking Water Act Amendments of 1977 are designed to help remedy the ills faced by our drinking water systems. The bill funds ongoing programs administered by EPA. **[Sec. 2; Secs. 1442, 1443, 3 SDWA]** It would mandate a study by EPA of alternative means of complying with—and paying for compliance with—the national primary drinking water standards. **[Sec. 3(a); Sec. 1442(a) SDWA]** The bill also creates a fund which the Administrator may use to assist States or public water systems which are afflicted by emergencies of unknown origin or which the State or system cannot remedy without Federal assistance. **[Sec. 9; Sec. 1442(a) SDWA]**

The bill also directs the Administrator of EPA to study the effects of polychlorinated biphenyls, trihalomethanes—the reaction of chlorine and humic acids and other contaminants that bear further scrutiny. **[Sec. 3(e); Sec. 1442(a) SDWA]** This study is already underway and should not delay standard setting for chlorinated organics.

But this bill does a lot more. In enacting the Safe Drinking Water Act of 1974, Congress intended that the Federal Government promulgate standards which would assure the provision of safe drinking water to the citizens of this country; the States were to be responsible for implementing and enforcing these standards. This bill would help effectuate that goal by extending for 2 years the date by which the States must attain primary enforcement responsibility States would be permitted to apply for continuation grants for the establishment of public water systems supervision programs through October 1, 1979, provided that the State is likely to attain primary enforcement responsibility. **[Sec. 5; Sec. 1443(a) SDWA]** The bill is designed to

provide the necessary assistance and time to those States that desire to attain primary enforcement responsibility. If a State does attain responsibility over its public drinking water systems it, rather than EPA, will have the prerogative of regulating and supervising State public water systems. The State rather than EPA will be able to grant variances and exemptions to those public water systems which are unable to attain national drinking water standards.

In order to assist States in implementing effective drinking water programs, the bill would authorize the Administrator to provide training and training grants to State personnel and prospective State personnel. **[Sec. 4; Sec. 1442 SDWA]**

Finally, the bill also would afford designated States additional time to implement underground injection control programs. **[Sec. 6(a); Sec. 1422(b) SDWA]**

Mr. Speaker, this bill will help States attain autonomy in regard to their public water systems. It will help States upgrade their public water systems. It directs the Administrator to assess present and alternative means of meeting the national drinking water standards. It also directs the Administrator to continue studying the health effects of particularly toxic pollutants.

Mr. Speaker, I think the bill, as it was reported from the committee, would greatly aid in improving our Nation's drinking water quality and protecting the public health. The bill is basically a noncontroversial one which has bipartisan support and passed the committee by voice vote. The bill has the support of the National Governors Conference, the Conference of State Sanitary Engineers, and the American Water Works Association, to name a few.

However, there have been a few minor concerns raised about the bill by my colleagues in the House. In order to respond to these concerns, the motion I have offered would suspend the rules and pass the bill H.R. 6827, the "Safe Drinking Water Act Amendments of 1977" with an amendment. The amendment attempts to satisfy my colleagues' concerns. It has been developed in consultation with, and has the support of, the minority members of the committee and the minority leadership.

The first concern was raised on behalf of certain Indian tribal groups and organizations. The concern that was expressed was that this bill might adversely affect the sovereignty of Indian lands or Indian water rights. This was not the committee's intent. As pages 12–13 of the committee report make clear, the purpose of section 8 of the bill is to assure that federally owned or operated installations—such as Army bases or BLM lands—will comply with State and local substantive and procedural requirements for protection of underground water sources and for the provision of safe drinking water. **[Sec. 1447 SDWA]**

As page 13 of the committee report makes clear, the bill is not intended to alter or affect the preexisting status of Indian lands or Indian water rights. In order to make this intention even more manifest, however, one part of the amendment would expressly provide in the bill what is stated in the committee report. With this amendment, it is clear that the bill will not change the existing law with respect to Indian lands or water rights. Nor would the Interior Department be deemed a "Federal agency" for the purpose of the act when it is acting in its capacity as trustee for Indian lands.

The second concern has been raised on behalf of certain States and oil and gas producers in those States. This concern is that the Environmental Protection Agency's proposed regulations to control underground injection practices may be overly rigid and fail to take account of special varying local or regional, historic, geologic, or hydrological conditions.

This concern was raised in the full committee. In this regard, the committee rejected an amendment which would have required that EPA, in effect, promulgate a separate set of guidelines for each State to regulate underground injection.

However, the committee report at page 11 indicates that reasonable flexibility should be provided in the guidelines so that varying conditions may be taken into account, where appropriate. Again, in order to take account of the concerns expressed primarily by minority members of the committee, the amendment would reflect this legislative intent in the actual language of the bill, not merely rely on the report. **[Sec. 6(b); Sec. 1421(b) SDWA]**

The amendment would make clear, however, that the overriding purpose of the section is to assure protection of actual and potential underground sources of drinking water. Nothing in this section may be construed to the contrary. Thus, in determining whether some change in requirements from the national guidelines may be permitted or required for a specific person or area with special conditions, the Administrator is directed to assure the protection of underground water sources.

Thus, the amendment also indicates concurrence with the Administrator's interpretation of **section 1421(b)(2)** of the act. Under this interpretation, the Administrator's guidelines, in order to be sustained on judicial review, must be rationally related to the purpose of preventing risk of contamination of underground water sources. The Administrator would be obliged to show the "essentiality" or necessity for its guidelines, only upon a prior showing by the party challenging the guidelines that the guidelines will stop or substantially delay or reduce oil or gas production.

The amendment states expressly that nothing in the section is intended to affect the Administrator and the State's duty to assure protection of underground sources of drinking water. Thus, the amendment makes clear that prevention of contamination of drinking water sources is the paramount concern of the section.

The third concern which has been expressed is that the bill may inadvertently create an incentive for States to delay assuming primary enforcement responsibility. As the bill is presently written, the Administrator must reallot at the beginning of fiscal year 1980 the retained portion of the allotment of States which received grants, but which did not attain primary enforcement responsibility by the end of fiscal year 1979. Thus, States which assume primacy during fiscal year 1979 are entitled to the same aggregate allotment of State program grant funds as States which have already achieved primacy or which do so in fiscal year 1978. In order to remedy this problem, the amendment permits the Administrator to reallot program grant funds at the beginning of fiscal year 1979, instead of requiring him to wait until the beginning of fiscal year 1980 to do so. **[Sec. 5; Sec. 1443(a) SDWA]**

With regard to State program grants, many States and the Conference of State Sanitary Engineers have expressed concern that Federal program grant assistance to the States might precipitiously terminate or be reduced. I want to assure those who have this concern that that will not be the case. As indicated in the committee report, the committee recognizes the long-term nature of the problem of eliminating contamination from drinking water sources and upgrading drinking water monitoring, research, planning, inspections, treatment, training, and public notice practices. At page 7 of the report, the committee's commitment to provide continuing and adequate financial assistance to the States is expressed. I personally wish to underline and affirm that commitment.

The fourth legislative concern which was expressed was that the language of **section 8(c)** of the bill might be misconstrued to permit challenges of the Administrator's regulations in State courts or in Federal district courts in enforcement or preenforcement proceedings. This was not the intent of the committee. Under **section 1448** of the existing law judicial review of the Administrator's regulations and guidelines is exclusively assigned to the U.S. court of appeals. **Section 8(c)** of the present bill is not intended to change that policy.

In order to clarify the committee's intention in this regard, the amendment inserts the words "to enforce any requirement" on page 11, line 10 of the Union Calendar bill. The amendment expressly limits judicial review as provided currently in **section 1448** of the act. In so doing, the amendment only permits enforcement actions—including actions for civil or criminal penalties—to be brought in State courts or administrative proceedings. No challenge to the Administrator's regulations or orders under title 14 of the Public Health Service Act would be permitted in State courts or administrative procedures. The amendment thus makes it clear that the current law on judicial review is unchanged. Except as provided in **section 1448(b)** where review of some specific orders is authorized in Federal district courts, judicial review of the Administrator's regulations or orders under this title is limited to the U.S. courts of appeals.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I just wanted to ask the chairman a brief question. I know in the 1974 Act there was some implementation of potable reuse programs. I notice that amendment is not in the bill. Could the gentleman explain why?

Mr. ROGERS. Yes. I know of the concern of the gentlewoman from Colorado and I certainly share the gentlewoman's concern about the projects that are under research and consideration. That actually is in the jurisdiction of another committee. To our understanding, that has passed the House. It is now in conference with the Senate; so I think the concern should be taken care of in that legislation.

Mrs. SCHROEDER. Mr. Speaker, if the gentleman will yield further, the gentleman's position is that the jurisdiction changed a bit between 1974 and 1977; that is why the bill has changed?

Mr. ROGERS. This is correct.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman very much.

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Speaker, I would like to engage in a colloquy with the chairman.

Mr. ROGERS. Yes.

Mr. AUCOIN. I represent a State that is known nationally for its progressive environmental stance. Keeping water clean, or making it clean once again, is one of many environmental goals and achievements of Oregon.

So I wholeheartedly support the goals of the Safe Drinking Water Act. But one aspect of the way this legislation has progressed concerns me. This is that Congress has imposed a requirement—regardless of how good it is—on local government without providing a means by which local government can pay the cost.

I would very much appreciate it if the gentleman would give his thoughts on how Congress might lend assistance to the cities to enable them to pay for the improvements to their water systems that this act ultimately will require. In doing so, I know you will maintain a realistic perspective of the finances of cities, keeping in mind the difficulty in qualifying for community development block grant funds for such purposes, the strings attached to funding through the Economic Development Administration's public works program and the frequent unwillingness of voters to approve additional taxes.

In addition, I would appreciate the gentleman's comments on how the Environmental Protection Agency will administer the Safe Drinking Water Act over the next 2 years while crucial cost and alternative water treatment system studies are being finished. In particular, I would like to submit for the record a recent exchange of letters between me and the Administrator of the Environmental Protection Agency, Mr. Douglas M. Costle, on this subject. I know you have seen these letters and would like your reaction. Would the gentleman agree that it is his intent that EPA approach enforcement of the act in a conciliatory, patient manner, giving due consideration to cities with high-quality raw water, minimal alternatives, and financial difficulties?

Mr. ROGERS. I thank the gentleman for his support for the Safe Drinking Water Act and for his concern about the way that the act will be implemented. There is no question but that safe drinking water will not be free. The costs of compliance with the interim regulations should not be excessive, but costs will depend on the size of the system, the quality of its raw water, the type of treatment techniques in use, and the availability of alternative raw water sources, among other factors.

To help quantify these costs with greater certainty, the committee bill directs the Administrator to conduct studies on alternative methods of compliance, the relative costs of such methods to large, medium, and small systems, and alternative ways of financing compliance. **[Sec. 3(a); Sec. 1442(a) SDWA]** On the basis of these studies, Congress will be in a position to determine the type and amount of Federal financial assistance which will be needed.

I believe the committee's intention is the same as is reflected in the Administrator's letter, as to the proper method of enforcing the act. Once a community finds its drinking water is not meeting safety levels, the public water system is required to notify consumers but should be

given a reasonable period to consider alternative compliance methods and to determine the least-cost method in its particular circumstances. If that method is readily available, the community should implement it at once.

If on the other hand, high compliance costs or other compelling factors make prompt compliance impossible, then the public water system would be expected to apply for an exemption under the act. If the public water system is located in a State with primary enforcement responsibility, then the exemption could be obtained from the State.

Mr. AuCoin. What if the State had not assumed primary enforcement responsibility?

Mr. Rogers. Then EPA would be authorized to grant an exemption and, if the water system made out a good case for it, the Agency would be expected to grant it.

We also expect that the Agency would provide technical assistance to help municipalities determine compliance options and to assist in developing a sensible compliance strategy. In this respect, the committee anticipates an essentially cooperative and supportive response by the Agency to help municipalities come into compliance.

Thus, court action by the Administrator to enforce the standards should be a measure of last resort when efforts at negotiation, technical assistance and persuasion have failed and the water system refuses to commit to action to come into compliance as required by the act. This is particularly important in the first year or two of the effectiveness of the standards.

Mr. AuCoin. I am reassured by this answer, I say to the gentleman from Florida (Mr. Rogers), and by the letter from Administrator Costle to the same effect.

Mr. Rogers. Of course, this does not mean that municipalities may engage in dilatory practices, endless studies, or subterfuges and avoid the basic requirements of the act. Nor would it authorize the circumvention of monitoring, public notice, or reporting requirements. And, of course, the Administrator would be expected to act promptly to protect the public health in a case of an imminent and substantial endangerment, such as is described in the 1974 committee report (H. Rept. No. 93-1185, pp. 35-36) or as occurred in the recent FMC case.

Finally, while a cooperative spirit and approach is essential and reasonable time must be allowed, there can be no compromise of the Agency's ultimate responsibility to assure compliance with the health standards and requirements of the act.

Mr. AuCoin. I fully concur. Protection of the public's health must be the primary concern. One final question to the gentleman from Florida (Mr. Rogers). If a municipality can show its raw water source meets primary regulations must it still add treatment techniques?

Mr. Rogers. No. So long as the delivered water meets the health standards, no further treatment would be required. Also if a specific treatment technique is required, a variance from that requirement is authorized by **section 1415** of the act, for a water system which can show that its raw water source and its distribution process is so clean that no treatment is needed to protect the public health.

Mr. AuCoin. I thank the gentleman for his answers and concur in them completely.

The letters referred to above are as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C. June 13, 1977.

Mr. DOUGLAS M. COSTLE,
Administrator, the Environmental Protection Agency, Waterside Mall, Washington, D.C.

DEAR DOUG: As the effective date of the national interim drinking water regulugations approaches June 24, many cities within states that have chosen not to assume primacy under the Safe Drinking Water Act have grown concerned about the potentially great liability that is being thrust upon them.

I am aware of legislation now moving in Congress that would reauthorize the Safe Drinking Water Act and expand the ability of individual states to grant variances and exemptions to those cities unable to comply with the regulations. However, this expanded authority only comes into play if the cities are in states that have accepted primacy in enforcement of the Safe Drinking Water Act.

Oregon's governor has declined to accept state primacy over the federal government in enforcement of this Act, leaving cities within Oregon in what appears to me to be a precarious position. The League of Oregon Cities has made an estimate that compliance with the Safe Drinking Water Act would cost cities in the state some $200 million. That equals 10 per cent of the total general fund resources of Oregon in the next two years. The amount is almost twice what Oregon cities levied in property taxes in 1976.

In a presentation to the Oregon Legislature, the League of Oregon Cities emphatically described the cities as being in "financial trouble."

Governor Bob Straub of Oregon, in a letter explaining why he was declining the responsibility to enforce the Safe Drinking Water Act, said:

"I do not believe that the federal act is needed or appropriate for Oregon. The evidence in this state are not the cause of public health problems. Yet the Act attempts to force us to meet expensive nationally determined standards without regard to the present quality of our water supplies."

The governor also cites the expense of meeting the Act's requirements, noting the federal government has not made funds available to meet those costs.

The Oregon Legislature is so enflamed over the Safe Drinking Water Act's failure to provide assistance to meet requirements laid down by the federal government that it has moved legislation through the State Senate to create bonding authority for public water supplies with the following proviso:

"Specifies that monies shall not be used exclusively for projects required by the federal Safe Drinking Water Act of 1974."

In the context of all this, I have sought to come up with a common sense approach that on the one hand will enable the Environmental Protection Agency to deal effectively with water systems posing health standards, while not penalizing cities with relatively clean water which happen to be in states other than those that have assumed primary in enforcement of the Act.

After giving this considerable thought, it seems to me reasonable for the EPA to exercise discretion and to adopt a conciliatory attitude toward enforcement of this Act, except when there is an imminent danger to public health.

Rather than rushing ahead, EPA should recognize the squeeze many cities are in, and act on compliance schedules and other enforcement steps only after good faith consultants with the affected cities. Instead of relying on strict schedules and the threat of court action, EPA should seek to establish good working relations with cities, striving for workable solutions that take into account their raw water quality, their water system alternatives, and their financial situation.

In short, I am calling for administration by finesse, not force. This approach seems practical to me in light of continuing studies being conducted into current and potential water contaminant levels; into what it will cost to reduce those contaminant levels to acceptability; and into alternative water sources and treatment technologies.

The purpose of this letter is to seek from you a commitment to follow the approach to enforcement I have suggested for cities in states that have declined to assume primacy in enforcement of the Safe Drinking Water Act. Such a commitment will build faith in the basic precepts of the Act, which I wholeheartedly support. The next two years will be crucial if cities are to be expected to make intelligent, rational choices.

Many cities do not have the information at hand to make those kinds of choices. And many do not have the funds available to act on the choices even if they could make them.

Following the course I have suggested will not diminish EPA's ability to step in where needed to require immediate action to reduce water contaminant levels. This course will, over time, improve EPA's ability to bring the results envisioned in the Act to fruition with less controversy and less resistance.

With warmest regards,

Sincerely,

LES AUCOIN,
Member of Congress.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., June 16, 1977.

Hon. LES AUCOIN,
House of Representatives,
Washington, D.C.

DEAR MR. AUCOIN: In response to your inquiry of June 13, 1977, I wish to assure you that EPA will work closely with the municipalities in Oregon to implement the Safe Drinking Water Act should that State fail to assume primary enforcement responsibility.

As required under the Safe Drinking Water Act, EPA has promulgated Interim Primary Drinking Water Regulations which become effective June 24, 1977. These drinking water standards were promulgated 18 months ago. The regulations were promulgated after extensive review and discussion and are very similar to the existing State of Oregon Drinking Water Standards and to the U.S. Public Health Service Drinking Water Standards of 1962. These standards have been generally accepted by public health officials around the world as necessary to protect the public's health.

The Act intended that the States would assume primary enforcement responsibility to ensure that drinking water standards were attained as quickly as feasible. To assist the States, Congress provided grants to help cover the administrative burden falling on the States. Oregon received such grants during the last two fiscal years.

The legislation also envisioned that the requirement that the public be notified when standards were exceeded would largely avoid the need for a major legal enforcement program. The Congress also provided for variances and exemptions to extend compliance schedules wherever there were serious economic or other factors making prompt compliance unfeasible and there was no immediate risk to health.

The Safe Drinking Water Act did not include Federal assistance to help public water systems attain the standards. The Congress assumed that such costs would be borne by the customers through increased rates. Our study of the potential economic impact of compliance with the new regulations indicates that most medium and large systems should not have major problems but that there would be significant impacts on small systems where sophisticated treatment is necessary. We expect that variances and exemptions will provide the needed flexibility and that initially financial aid may be available through existing Federal programs such as the Farmers Home Administration and the Department of Housing and Urban Development funds.

The amendments to the Safe Drinking Water Act currently before the Congress would require a detailed study of compliance costs including the need for alternative types of Federal assistance. Even without a specific mandate to study compliance costs and the economic impacts, EPA will continue to make such studies as better information becomes available.

Now that it appears that the State of Oregon will not assume primary enforcement responsibility for the Interim Primary Regulations, the statute requires EPA to take on these responsibilities. In the initial year or two of the program, this will mean insuring that the requisite monitoring is begun, that the public is informed when problems are found and that reasonable schedules are established for taking necessary remedial measures. In this work, EPA will continue to work closely with the State and with the affected communities.

EPA will insure that its stewardship of the Safe Drinking Water Act in Oregon, as in all other States, will be an essentially cooperative one. Oregon has a laudable environmental record and continues to be a leader in protecting the environment. I anticipate that the concern which the State and local governments have shown for the health of its people and the protection of its environment will make compliance with the Safe Drinking Water Act's health requirements a relatively easy goal to achieve.

Where the health standards are being exceeded, EPA will work with local communities and afford reasonable time for them to explore alternative compliance options. The Act provides for consideration of communities' financial status in the exemption provisions and EPA will take appropriate account of costs of compliance and other compelling factors in granting exemptions. To the extent resources permit, the Agency will provide technical assistance to communities facing compliance problems.

Communities will be encouraged to make commitments to specific compliance strategies by a process of cooperation and negotiation. We envision that court enforcement proceedings to assure compliance with primary drinking water standards would be relatively rare occurrences. They will be initiated only as a measure of last resort where there is a refusal or failure on the part of the public water system to move expeditiously, in accordance with the requirements of the law, to bring the system into compliance or to seek an exemption or variance.

EPA will insure that the communities are aware of their right to petition for variances and exemptions and will process all such applications fairly and in accordance with the legal requirements. Where problems are found which pose an immediate threat to health, we will, of course, require appropriate and timely action.

While we will meet our legal responsibilities, EPA hopes to continue its cooperative efforts within Oregon in order that the State will eventually assume primary enforcement responsibilities for the program.

I hope that my response will alleviate some of the concerns and I look forward to working with you in the future.

Sincerely yours,

DOUGLAS M. COSTLE.

Mr. ROGERS. I thank my colleague for his interest and support.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. SISK. Mr. Speaker, I appreciate the gentleman yielding to me.

At this time, Mr. Speaker, I wish to call to the attention of the Members of the House and in particular to Mr. Rogers a matter germane to the bill before us but heretofore unaired in a public forum.

Is or is not water a food? Behind this curious and seemingly harmless question lies the core of a serious interstatutory and inter/intra-agency jurisdictional problem that over time can have a considerable deleterious impact on the congressional intent to assure the American public of a safe, affordable drinking water supply.

It has come to my attention that growing and apparently intractable regulatory confusion and conflict is occurring between the two principal agencies charged with implementing America's drinking water regulations, the Environmental Protection Agency and the Food and Drug Administration. At the heart of this confusion lie four statutes; the Food, Drug and Cosmetic Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Safe Drinking Water Act, and Toxic Substances Control Act.

Separately, these are good and well-meaning statutes. But because of their unanticipated jurisdictional interaction, the EPA and FDA have to date been unable to resolve such basic issues as which regulations apply, which treatment chemicals and techniques are acceptable, and what procedures are to be followed when seeking regulatory clearance of new and potentially beneficial treatment techniques.

Mr. Speaker, unless altered, the law now calls for mandatory public notification of substandard water quality on a nationwide, quarterly basis commencing this June 24. [Sec. 1414(c) SDWA] I would submit that a significant number of the 50,000 communities served

by municipal water systems may be in for a surprise as they learn just where their public water supplies stand in relation to the current standards, which, I would remind those present, are interim in nature. The final safe drinking water standards may well be considerably more stringent, specifically in the area of organics contamination.

In conclusion, I would urge my friend and colleague, Mr. Rogers, and his colleagues of the Subcommittee on Health to closely examine in the months ahead those germane areas of statutory and regulatory overlap that now exist, call upon the affected agencies to clarify those problem areas and attempt to reach official inter- and intra-agency agreements of resolution. Failing resolution of those identified problems at the agency level, I would suggest that this body examine the need for corrective legislation.

The benefits of such an early resolution of this complex statutory and regulatory impasse are many. All present are aware, I am sure that the monetary outlays, both public and private, required to comply with the new standards will be enormous. This same public and private sector must be encouraged now to move ahead with development of technologies and systems that will provide the safe and affordable drinking water the public requires and demands. Without a stable and equitable regulatory environment, however, little progress can come.

I close my remarks with my initial question: Is or is not water a food? This and related questions must be resolved if we are to ever succeed in attaining our goal of safe, affordable drinking water for the American people.

Mr. ROGERS. Mr. Speaker, I would just like to respond that I share the gentleman's concern. I am hopeful that with this statement, the two agencies in question can get together to resolve the jurisdictional, legal, and policy issues involved in an equitable way that carries out the intent of the legislation to which the gentleman has referred. If such an agreement cannot be reached administratively, however, then I think legislative review and resolution would be necessary. Since the bill only contains authorizations for 2 years, we will be reviewing the agencies' progress on this matter soon.

Mr. SISK. I thank the gentleman for his statement of support. I am reassured by his response and share his hope that the issue can be satisfactorily resolved administratively.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks and to include extraneous material, and that all Members may have 5 legislative days in which to revise and extend their remarks on the State Drinking Water Amendments of 1977.

The SPEAKER pro tempore (Mr. Downey). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation, H.R. 6827, the Safe Drinking Water Amendments of 1977 with the committee amendments. I think this legislation is very necessary. For years, about the only test we had on our water was one conducted by the different State health departments, which consisted of taking a sample to see if E. coli were present. The presence of E. coli was determined by the formation of gas in a little double tube.

Now we find that our water is contaminated by many, many substances. Actually even the substance chlorine, which is used in purifying our water may well be, in combination with humic acid from soil water, carcinogenic. Therefore, in this legislation we have included funds to study the reaction products of humic acids and chlorine and their effect on human health. **[Sec. 3(e); Sec. 1442(a) SDWA]** We found, in examination of the water of the Mississippi in the neighborhood of New Orleans that the cancer rate has increased about 15 percent. More than likely, this is due to chloroform which is in the water. That is why the committee believes that a study on these substances is needed. Many times our water is contaminated accidentally and by people whose identity it is difficult to determine. This sort of thing occurred in Louisville, Ky., during the past year. As a result, raw sewage had to be dumped into the Ohio River for a period of time. In this safe drinking water legislation, we have included a special emergency assistance fund, with an $8 million authorization for each of the next 2 fiscal years. This provision authorizes the Administrator of Environmental Protection Administration to provide special assistance, including grants, to States or publicly owned water systems to deal with drinking water related emergencies which the State or locality is unable to remedy without emergency assistance. **[Sec. 9; Sec. 1442(a) SDWA]** In this way, we can help cities cope with emergency situations such as getting rid of chemicals and raw waste material which has been dumped into their streams.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Florida (Mr. Rogers).

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Speaker, I just want to say that I think the House ought to know that it was the gentleman's amendment that included the emergency grant authority in the bill. I think the provision is important. I commend him for his alertness in having offered the amendment.

Mr. CARTER. I thank the distinguished chairman of the committee for his remarks. Also, I commend Mr. Rogers for his outstanding work on this legislation.

Actually, our water contains PCB's, polychlorinated biphenyls, which are known carcinogens also. And it will pay us a great deal to have our water carefully examined. By the very methods we use in purifying our water we may ourselves be causing cancer. This is the reason we have included the study and also the emergency funds for eradicating spillage into those pure water systems and contamination of our rivers.

The total of all the authorizations provided in this legislation for fiscal years 1978 and 1979 is $152 million. The money will be used in several ways to help States implement more effective drinking water

programs. For example, there are funds to help train technicians in the States in the examination of water. Many of the Members familiar with their local water systems know that over the years some of the people really have not known how to check and test their water properly. They have not had the expertise. But with the funds which we have authorized for grants to the States, people will be trained, and they have been since 1974, to detect different contaminants which might adversely affect the health of the people.

Mr. Speaker, I strongly support this legislation. I believe it is needed in order to continue Federal and State efforts to assure safe drinking water for the people of this country.

Thank you.

Mr. Speaker, I submit a summary of the subcommittee action on H.R. 6827:

SUMMARY OF H.R. 6827—SAFE DRINKING WATER CLEAN BILL APPROVED BY SUBCOMMITTEE

Sec. 1. Safe Drinking Water Amendments of 1977.

Sec. 2. Authorizations—$71 million fiscal year 1978; $81 million fiscal year 1979—

Seventeen million dollars for each of fiscal year 1978 and 1979—for studies, technical assistance and training;

Thirty-five million dollars fiscal year 1978; $45 million fiscal year 1979—for grants to states for water supervision programs;

Ten million dollars for each of fiscal year 1978 and 1979—for grants to states for underground water protection programs;

Eight million dollars for each of fiscal years 1978 and 1979—for special emergency assistance; and

One million dollars for each of fiscal years 1978 and 1979—for survey of rural water supplies.

Sec. 3. Studies—

EPA report to Congress within 18 months on several topics relating to costs of implementing the Act;

EPA report to Congress within 18 months on analysis of the present and projected availability of an adequate and dependable supply of safe drinking water;

National Academy of Sciences to report every 2 years on maximum safe contaminant levels and potential (but unmeasured) contaminants;

EPA to conduct studies on reaction between humic acids and chlorine in drinking water; and

EPA to conduct study on PCB's and other toxic substances in water.

Sec. 4. Training—

Grants for free training (including postgraduates) to personnel of state and local agencies and those who work for public water systems; and

Grants to enable individuals to qualify for such positions provided at reasonable cost.

Sec. 5. Grants—

Grants to states for fiscal years 1978 and 1979 if in EPA's judgment state is making diligent effort and significant progress toward primary enforcement; and

Provision for EPA retention and reallocation to other states of 25 percent of grants if primary enforcement not assumed by beginning of fiscal year 1980.

Sec. 6. Extension of deadline for State Underground Injection Control Program—Authorizes EPA, for good cause, to extend the current 270 day period for state submission of application for primary enforcement responsibility for underground drinking water sources for 270 additional days.

Sec. 7. Extension of authority to assure availability of chemicals used for water treatment—Certificate of need issued by EPA requiring manufacturers or distributors to supply chemicals authorized until end of fiscal year 1979.

Sec. 8. Federal Agencies—

Federal government to comply with all state and local requirements (substantive and procedural) and to administrative authorities, process, and sanctions respecting drinking water; and

Suit may be brought in state courts and could not be removed.

Sec. 9. Emergency Assistance—Special assistance available to cope with state and local situations of unknown causes or which cannot be remedied without emergency assistance.
Sec. 10. Technical and Conforming Amendments.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Brown).

Mr. BROWN of California. Mr. Speaker, I rise in support of this bill and also to point out an overlap of interest between the Commerce and Science Committees with respect to this bill.

I want to congratulate my colleague from Florida (Mr. Rogers), chairman of the Environment and Health Subcommittee of the Interstate and Foreign Commerce Committee. He has done a very good job on this bill. It is a good bill; it is a needed bill; it is totally in order. The bill we have before us today recognizes the jurisdiction of the Committee on Science and Technology over environmental research and development as provided for in the House rules. I commend the Committee on Interstate and Foreign Commerce and its distinguished chairman, Mr. Staggers, for bringing this bill to the floor.

Mr. Speaker, you will recall that on April 19 of this year, the House passed H.R. 5101, which authorized research, development and demonstration activities in the Environmental Protection Agency for fiscal year 1978. Paragraph 8 of subsection 2(a) of the bill authorizes appropriations for "water supply" research, development, and demonstration activities. Further, the report acompanying the bill, House Report 95–157, makes clear on page 3 that H.R. 5101 authorizes funds in support of the Safe Drinking Water Act.

To recapitulate, the House has already passed H.R. 5101, which authorizes research funds, and the bill before us today specifically does not authorize research funds.

The Senate has acted somewhat differently. They have passed the bill S. 1528 which authorizes research in support of the Safe Drinking Water Act, and which is also—in other respects—the companion to the bill before us today, H.R. 6827. The Senate has also passed an amended version of H.R. 5101, the EPA research authorization bill, excluding drinking water research.

Thus, there is a small disparity between the two Houses, which I mention only to indicate that the concerned committees on the House side are working together, keeping each other informed, and moving toward accommodation. Anticipating this continued cooperation, Mr. Chairman, I wholeheartedly support this bill and urge its passage.

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, I thank the gentleman from California (Mr. Brown) for his kind remarks, and I also thank him on behalf of the subcommittee for his cooperation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. Maguire).

Mr. MAGUIRE. Mr. Speaker, I would like to express my support for H.R. 6827, the Safe Drinking Water Act amendments.

At the same time, I want to express my understanding for the record that this bill will serve to strengthen and expedite efforts to protect the safety of our Nation's drinking water supplies. And I want to assure that this understanding has the support and concurrence of Chairman Rogers and the committee.

In particular, I believe action by EPA to control chlorinated organic contaminants in drinking water is long overdue. The original 1962 Public Health Service standards contained such controls in the form of a CEE-test. More recently, FDA has banned the addition to foods of some of these substances—such as chloroform—when tests showed them to be cancer causing. Later statistical studies have increased the basis for concern. Yet despite these factors, EPA did not include any chlorinated organics controls in the interim standards established 18 months ago and was sued for failing to do so. That suit is still pending.

Since that time there have been encouraging signs. The President's environmental message of May 23, 1977, commits the EPA to institute standards or treatment techniques, or a combination, to reduce drinking water exposures to these known and suspected cancer causing agents. This commitment has been made still firmer in EPA's June 24, 1977, press release. According to the Deputy Administrator of EPA, "Within the next several weeks EPA will propose regulations to protect the public from chloroform and other organics of the trihalomethane group."

Mr. Speaker, I support the studies contained in this bill. But I want to insure that these studies will not be used as an excuse by the Agency or the courts to further delay regulation of these contaminants which seem to justify prompt control measures.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I would be glad to yield to the gentleman from Florida.

Mr. ROGERS. I want to assure the gentleman that I share his concern about the need for prompt action to control chlorinated organics. But the studies should not delay control efforts in any way. They are intended by the committee merely to provide additional useful information, not to permit any further delay in regulating.

Mr. MAGUIRE. I am pleased by that statement of interest and fully concur. I also want to make sure, however, that the language of the amendment regarding the underground injection control program will not in any way reduce or weaken EPA's and States' obligation to assure protection of our Nation's underground water sources.

Mr. ROGERS. If the gentleman will yield, I can assure him, no such weakening is permitted. The amendment merely permits local factors to be taken into account, where no increase in risk of contaminating underground water sources would result.

Mr. MAGUIRE. Again, I am reassured by that statement of committee intent. I have one final question.

Under the SDWA, as amended by the House bill, would EPA be required to demonstrate either actual harm from existing underground injection practices or the inadequacy of the existing State program in order to establish minimum requirements for underground injection operations in a State? It is my understanding that no such prior demonstration is now required or would be required under the House bill.

Mr. ROGERS. The gentleman is correct.

Neither the current act, nor the amendments contained in this bill would require EPA to make such a demonstration. It is recognized

that the contamination of ground water can be a complex phenomenon, which may be caused by factors other than underground injection practices. Nonetheless, careless underground injection practices continue to pose a serious risk to ground water as evidenced by recent reports of a USGS study regarding the contamination of a large aquifer in Oklahoma by underground injection practices associated with oil production. It is not feasible, though, to require EPA to analyze the precise cause of ground water contamination throughout the country in order to establish preventive underground injection control regulations under the SDWA. Similarly, it is not feasible to require EPA to undertake an analysis of the efficacy of each and every aspect of existing State programs, although it is anticipated that EPA will study existing State programs in order to avoid the promulgation of unnecessarily disruptive minimum requirements. Instead, it is appropriate for EPA to consider factors such as population at risk, amount of ground water, and number of injection wells in designating States to participate in this preventive program.

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman and agree completely.

Mr. Speaker, in April, the subcommittee received testimony on the difficulties associated with tuberculation in iron and steel water piping, which is still the most common type of pipe in use to transport drinking water. After a period of years, iron pipes become clogged with corrosion, leading to reduced carrying capacity, more energy needed to pump the water, and a phenomenon known as red water—a high concentration of particulate matter in drinking water.

Due to tuberculation, many cities—especially in the Northeast, where water systems tend to be older—are finding it impossible to meet the turbidity standards set pursuant to the Safe Drinking Water Act. Although it has not been conclusively demonstrated that particulate associated with tuberculation, in and of itself, directly harms health, there is considerable evidence most recently from the National Academy of Sciences—that these particles can act as carriers of various viral, bacteriological and other toxicants. There is also evidence that turbidity interferes with the effectiveness of treatment processes to protect health.

The subcommittee also heard testimony on cleaning and upgrading tuberculated pipe via cement mortar lining. This process can eliminate tuberculation permanently, and is much less costly than actually replacing a whole network of corroded pipe, since material costs are lower, and because much less pipe has to be dug up. The virtues of this approach will become increasingly apparent as more and more cities are forced to ask themselves what to do about their old and corroded water piping.

I would therefore like to ask the gentleman from Florida if it is the intention of the committee, and I would hope that it is, that the EPA consider the tuberculation problem, its bearing on public health, and particularly at cleaning and lining as a potentially cost-effective solution, in its studies on the costs and means of compliance with drinking water standards by States and localities.

Mr. ROGERS. Under **section 3** of the bill, EPA is directed to study all potentially useful strategies that States and local jurisdictions

might use to meet the safe drinking water standards in a cost-effective manner. The committee recognizes the many problems associated with tuberculation, and I would expect that the agency would include in its study a review of approaches such as cleaning and lining to alleviate the excess turbidity which results from corroded piping.

Mr. CARTER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Louisiana (Mr. Moore).

Mr. MOORE. Mr. Speaker, I would like to endorse the remarks of the gentleman from Kansas with respect to the proposed regulations on State underground injection control programs. Few of the over 400 comments received by EPA as of January 1977 were supportive of the regulations. Indeed, this was scarcely surprising in that the proposed regulations contained numerous technical and procedural specifications not required by the act.

These regulations needlessly could result in a cost of hundreds of millions of dollars for industry and drive out marginal and capital-poor operations. They represent a classic example of overkill. For example, even though Texas has some 44,000 injection wells, the Texas Railroad Commission found that there were in 1975 only 7 active files involving ground water, and they have been remedied. Yet, it is estimated that in Texas alone the paperwork required to comply with the regulations would comprise a stack higher than the Washington Monument.

In California, where injection has been practiced for over 40 years, only six complaints, none of which involved damage to public health, were found. Nevertheless, the estimated cost of the proposed regulations for that State have ranged as high as $1.3 billion.

Therefore, with these considerations in mind, I think that the gentleman from Florida demonstrated great wisdom in offering to amend the act to insure consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State. This, I believe, will make it clear that the laws, regulations, and history of underground injection operations in the respective States would be approved where they are adequate without the imposition of unnecessary requirements ignoring the different condition in different States. The gentleman proposes a reasonable and flexible approach to this.

I offered a similar amendment in full committee and support his efforts.

Mr. ROGERS. Mr. Spaker, I thank the gentleman from Louisiana (Mr. Moore) for his comments and for his support of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DRINAN. Mr. Speaker, I rise in support of H.R. 6827, the amendments to Public Law 93–523, the Safe Drinking Water Act. This important legislation is a significant step forward the objective of providing safe drinking water to the American public. It has opened the way for an all-out effort by towns and municipalities all over the Nation to insure that its residents have the safest and cleanest water possible.

I would like to commend the Subcommittee on Health and the Environment for their fine work in this legislation. My esteemed colleague

from Florida (Mr. Paul Rogers) has provided outstanding leadership in guiding this bill through his subcommittee. The subcommittee has worked tirelessly in seeking to resolve the problems of equitably providing clean drinking water for the American public.

At this time, I would like to bring to the attention of my colleagues an issue which I presented to the subcommittee in April. I have introduced legislation, H.R. 2317, which would authorize grants under the Safe Drinking Water Act to communities to clean and update their water lines for the purpose of meeting the requirements under this act.

The uniform minimum standards for drinking water quality that must be met under the act constitute a significant financial burden to many of those municipalities and townships which must comply with the regulations. H.R. 2317 is designed to alleviate the financial hardships placed on many towns by the regulations of the Safe Drinking Water Act.

The need for assistance to municipalities that are attempting to carry out the law and the beneficial effects to be derived by millions of Americans from such assistance cannot be dismissed. It is contrary to the public interest to have any public drinking water which poses threats to human health, and thus appropriate for the Federal Government to share the burden of this cost.

Mr. Speaker, I direct my colleagues' attention to this deficiency in the Safe Drinking Water Act, and urge subsequent legislation providing a grant program to communities in order that we might effectively and efficiently insure clean drinking water for all Americans.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in support of H.R. 6827, Safe Drinking Water Amendments of 1977.

The Safe Drinking Water Act of 1974 was passed in response to a number of outbreaks of disease that were clearly attributable to contaminated drinking water. The act established a joint Federal-State regulatory system in which the Federal Environmental Protection Agency was charged with setting national drinking water standards and the States were given primary responsibility for enforcing these standards. It also provided a 3-year authorization for the Federal Government to provide technical assistance, information, training, and grants to the States for the purpose of improving their implementation of safe drinking water programs. These authorizations are due to expire at the end of fiscal year 1977.

The legislation before us allows these essential programs to continue by authorizing appropriations of $71 million for fiscal year 1977 and of $81 million for fiscal year 1978. In addition, the bill would establish an emergency assistance program for those localities requiring emergency intervention in cases where acutely hazardous conditions appear to endanger public health.

In addition to the acute problems that brought this issue to the attention of the Congress a few years ago, the public has become increasingly aware of and concerned about chronic exposure to low-level contaminants, including, in some cases, cancer-causing agents, in the water supply. To deal with this problem, the proposed legislation directs the Administrator of the Environmental Protection Agency to undertake a study of the interaction of such chemicals as chlorine,

humic acids, and polychlorinated biphenyls and of their potential effects on the toxicity of drinking water.

It seems ironic to me that a country with the technological capabilities of our own should allow its citizens to be subjected to substandard conditions of basic hygiene. I am concerned about reports that in some middle-class communities, residents have taken to drinking bottled water, out of concern over the safety of their tap water. Not everyone, and certainly not the residents of my district, can afford this luxury. Let us not neglect this basic responsibility to all of our citizens.

In support of the Federal-State effort to improve the quality of our drinking water, I urge my colleagues to join me in support of H.R. 6827.

Mr. RISENHOOVER. Mr. Speaker, I rise in support of the amendments to H.R. 6827 offered by the distinguished gentleman from Florida (Mr. Rogers).

When the subcommittee reported out this bill, I raised a question of jurisdiction because I feared—and the gentleman from Florida agreed—that the bill inadvertently would affect sovereignty over Indian lands.

Important language was placed in the committee report and the gentleman from Florida forthrightly agreed to include the amendment to **section 1447, subsection (d)**.

In the course of the analysis of the bill, I asked the Bureau of Indian Affairs and the Chief of the Osage Nation to state their views on the unamended bill.

I include the texts of these letters in the Record:

OSAGE TRIBAL COUNCIL,
Pawhuska, Okla., May 18, 1977.

HON. TED RISENHOOVER,
Longworth House Office Building,
Washington, D.C.

DEAR MR. RISENHOOVER: The Osage Tribal Council and I, on behalf of the Osage Tribe of Indians, strongly object to Section 8 of H.R. 6827 which amends the Safe Drinking Water Act by transferring enforcement jurisdiction over the Osage mineral estate to the State of Oklahoma.

The Osage mineral estate has been held in trust by the United States of America for the use and benefit of the Osage Tribe since June 14, 1883. The first producing oil well was completed on October 28, 1897. The Secretary of the Interior supervises and manages the Osage mineral estate pursuant to the Act of June 28, 1906, ch. 3572, section 3, 34 Stat. 539, as amended.

The residents of Osage County, which include many Osage and other Indians, should be protected from the pollution of drinking water. This is being done. The stringent controls imposed by the Secretary in 25 CFR 183.22, .28, .30, .32, and .35 prevent such pollution. The Superintendent of the Osage Agency, for example, requires surface pipe to be set below fresh water and cemented from top to bottom and other procedures acceptable to the oil and gas industry. I am 74 years old, have lived in Osage County all of my life, and am unaware of any pollution of drinking water caused by oil and gas operations.

It is vital to the Osage Tribe that the Secretary continue to maintain complete supervision and control over the Osage mineral estate. Any transfer of the responsibilities from the Secretary to the State of Oklahoma would not augment the protection of drinking water from pollution.

In view of the foregoing, it is strongly requested that Section 8 be deleted from H.R. 6827 or, in the alternative, its application to the Osage mineral estate be specifically excluded.

Sincerely yours,

SYLVESTER J. TINKER,
Principal Chief.

DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., June 7, 1977.

Hon. TED RISENHOOVER,
House of Representatives, Washington, D.C.

DEAR MR. RISENHOOVER: Thank you for your recent inquiry regarding H.R. 6827 and its effects upon Indian tribes and domestic energy production.

As Chairman Privett of the Oklamoha Corporation Commission has pointed out, the effects of H.R. 6827 as written would be devastating on oil and gas operations on the Osage Reservation. We agree that the bill as written would have the unintended effect of allowing local governments to shut down all waterflood operations, which currently produce some 19,000 barrels a day from Osage lands at a steady level of production.

In addition to the program on the Osage Reservation, there are an additional 5,000,000 barrels of oil produced annually from other Indian lands in Oklahoma, and much of this also comes from secondary recovery operations.

The Winkleman Dome Phosphoria and the Lander Phosphoria Units on the Wind River Reservation in Wyoming are both currently operating on waterflood recovery and, together produce some 3,000 barrels of oil a day at a steady rate of production.

The Two Medicine Cutbank Sand Unit on the Blackfeet Reservation in Montana is also on waterflood recovery and produces some 670 barrels a day. Although production from this unit has been declining in recent years, there are several other units on the reservation which will be converted to secondary recovery and which are expected to produce another 1,330 barrels a day.

The Aneth Field in San Juan County, Utah is largely on Indian land, and it, too, maintains a substantial level of production from secondary recovery operations. Figures from January 1977 indicate the following levels of production from secondary recovery operations on Indian lands in this area: Gothic Mesa 2,728 bbls/mo; Aneth Unit 296,630 bbls/mo; McElmo Creek 263,670 bbls/mo; Ratherford Unit 89,303 bbls/mo; White Mesa 28,405 bbls/mo; and Flodine Park 11,856 bbls/mo.

The total oil production from Indian lands achieved by the waterflood method of secondary recovery is well over 17,000,000 barrels annually, and is expected to increase as other older fields are converted. As presently written, H.R. 6827 would threaten this entire production.

Thus, the effect of H.R. 6827 on domestic energy production, local economies, tribal revenues, and state and local revenues could be enormous.

In addition to the effect H.R. 6827 would have on secondary recovery operations, we should point out that its effects on primary production may be more disastrous. As we read the language of section 8, it would affect not only waterflood injection wells, but disposal wells also.

In 1975, there were 986,285,654 barrels of oil produced from Indian lands and 2,421,903,069 mcfs of natural gas, excluding the Osage reservation. As we read H.R. 6827, all this production that comes from water-bearing formations would be affected. Water that comes from these formations must be disposed of, and it cannot be turned onto the land or into surface waterways. It must be put back into the ground. These disposal wells, it seems to us, would also be subject to the provisions of section 8. Thus, the bill as presently written would likely have devastating effects on the production of domestic energy resources from Indian lands.

Your interest in this matter is greately appreciated, and we hope the information provided here will be helpful to you in your efforts.

Sincerely,

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

Mr. SKUBITZ. Mr. Speaker, as you know, **section 1421(b)(2)** of the Safe Drinking Water Act provides that no underground injection control regulation shall interfere or impede petroleum production unless that regulation is essential to assure protection of underground sources of drinking water.

I believe that Congress intended that if a State had a satisfactory injection control program relating to oil and gas production which, at

the same time, protects underground sources of drinking water, then EPA is to approve the State's program. Certainly that was my understanding at the time of passage of this act in 1974. Indeed, a November 19, 1974, colloquy on the floor between Mr. Pickle and Mr. Rogers confirms my understanding—particularly the inserted letter of EPA Administrator Train.

Nevertheless, the proposed regulations published by EPA on August 31, 1976, in the Federal Register contained uniform requirements with extensive technical and procedural specifications not required by the act. Fortunately, as noted on page 11 of the committee report—No. 95–338—which accompanies this bill, Victor Kimm, Director of the Water Supply Office of EPA apparently recognized the problems with the proposed regulations.

However, based upon the history of agency action with respect to the underground injection control regulations, prudence demands that we reinforce our expressed intent with statutory language. Therefore, I applaud the chairman of the subcommittee for his willingness to include an amendment to **section 1421(b)** of the act to the effect that regulations shall permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State, so long as underground sources of drinking water will not be endangered by any underground injection. **[Sec. 6(b)]**

Kansas, as of October 1976, had some 1,895 producers operating 41,945 oil wells with 75.5 percent of its production. The average stripper production in Kansas is about three barrels of oil per day. Therefore, it is obvious that regulations that are overly burdensome particularly could adversely affect the low producers. The committee in its report particularly urged the Agency to exercise due care in striking this proper balance in its guidelines with respect to stripper well production. I shall not go into detail with respect to Kansas' problems with the proposed regulations, for they can be found in the printed record of the April 22, 1977, hearings on the act—serial No. 95–9. However, I must note that I share the concerns expressed therein.

I am hopeful that the language that the gentleman from Florida has offered will assure the national guidelines for the protection of underground sources will not be inflexible and burdensome. For, I believe that Kansas has done a commendable job in protecting fresh and usable water acquifers in each and every one of the disposal permits issued.

Once again, I compliment the gentleman from Florida on his thoughtful attention to this matter.

Mr. LEHMAN. Mr. Speaker, I rise in support of H.R. 6827, the reauthorization of the Safe Drinking Water Act.

Our Nation saw fit to regulate the contents of the meat we eat three-fourths of a century ago. Yet, similar restrictions on the contents of our drinking water were not enacted until 3 years ago. Until that time, people assumed that someone properly treated their water before it got to their faucets.

In the early 1970's sensitivity grew about our abuse of the environment. We began to examine the effect on our drinking water of all the oils, chemicals, pesticides, fertilizers, and sewage which has been wantonly dumped into our waters. What we learned was alarming indeed. Dozens of organic chemicals, some of them suspected carcinogens, were

found in public drinking water supplies. In response to this threat, Congress passed the Safe Drinking Water Act in 1974.

Mr. Speaker, we know all too well that the mere passage of a law does not automatically end the problem which that law was meant to address. Drinking water problems still plague the Nation. A more recent survey conducted by the Environmental Protection Agency found carcinogens in the drinking water of 80 metropolitan areas. Successive studies reveal even bleaker news. Clearly the problem is still with us.

Only a handful of States have demonstrated sufficient capabilities to be granted primacy in their drinking water programs. A goal of the 1974 act was to have the States achieve primacy and thereby control drinking water on a statewide basis.

In order for a State to have a good drinking water program, the State should have basic testing programs for bacterial, chemical, and radiological contamination. Waste disposal practices—including land spreading, underground injection, and conventional means—should be reviewed, as should industrial waste disposal practices, solid waste management plans, storm water runoff policies, and other environmental activities with an impact on potable water supplies. Also central to a strong program is the ability to determine what degree or method of water treatment is necessary to cope with particular risk-causing factors. States should have the capability to evaluate risks associated with intentionally or unintentionally adding chemicals to the water.

H.R. 6827 would reauthorize the Safe Drinking Water Act and provide badly needed funds to the States to help them comply with the act. The bill provides funds for public water supervision programs, training of personnel relating to public water systems, technical assistance, and underground water source protection programs.

Residents of Dade County, Fla., do not need to be told about the need to take care of drinking water. In 1973, the largest typhoid outbreak in recent history occurred at a labor camp in south Dade County. Investigation revealed the failure of the chlorination system caused over 200 cases of waterborne typhoid. In another incident, excessive amounts of potentially dangerous bacteria in the city of Miami Beach water system forced the issuance of a boil-water order. In another part of the State, a reported 1,200 persons became ill with shigellosis, an intestinal disorder, which was traced to water contaminated by septic tank discharge.

The fact is, Mr. Speaker, that problems with waterborne bacteria occur quite frequently in Florida, necessitating issuance of notices to boil water. For example, 40 such notices were issued in the past 18 months, along with numerous corrective orders to resolve unsatisfactory and potentially dangerous conditions existing in public water supply systems.

Widespread publicity concerning these cases obviously alarmed residents in the affected areas. People in south Florida are so distressed that the sale of various devices to "purify" drinking water has become an $8 million per year business. Six percent of south Floridians either buy bottled water to drink or have purchased home filters. Still others purchase their water through vending machines. Ironically, these devices present health hazards themselves which can make the water

more dangerous to drink than the original product. This is a problem which should be looked into in the near future and which illustrates the lack of consumer confidence in their public drinking water systems.

Local residents are not the only ones aware of south Florida's drinking water problems. In repeated well-publicized nationwide surveys, Miami's drinking water has had the highest levels of chloroform and other carcinogens. An article in the official publication of the Florida League of Cities states that the drinking water situation "no doubt was responsible for some tourists canceling their Florida vacations."

There can be no doubt that we must extend the Safe Drinking Water Act. The States must be given an opportunity to develop satisfactory programs and achieve primacy. Where States fail to do so, the drinking water responsibility would be handled by the already overburdened EPA. With new air pollution, water pollution and toxic control programs recently thrust at them, the understaffed EPA has not even been able to come out with limits on chloroform and other carcinogenic compounds in drinking water. It is of utmost importance that EPA publish these standards promptly. Miami residents know that their water has more chloroform than any other city in the Nation, but standards are necessary to guide efforts to alleviate the situation. Once standards have been published, the EPA would be able to deal with "secondary standards." These would deal with the foul taste and murky color now plaguing Miami's drinking water. Secondary standards are badly needed. Chloroform or no, there will be no public confidence in the drinking water as long as it has a sickening smell, taste and appearance.

The long range solution to drinking water problems is to tighten pollution control laws so that harmful substances will be kept out of our waters. Until our waterways can be cleaned up, we should see to it that we have a good, protective drinking water program. I therefore urge my colleagues to support H.R. 6827.

Mr. CARTER. Mr. Speaker, I have no further requests for time.

Mr. ROGERS. Mr. Speaker, we have no further requests for time on this side.

The SPEAKER pro tempore (Mr. Foley). The question is on the motion offered by the gentleman from Florida (Mr. Rogers) that the House suspend the rules and pass the bill H.R. 6827, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1528) to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water systems, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Drinking Water Act Amendments of 1977".

SEC. 2. **Subsection 2(a)** of the Safe Drinking Water Act (88 Stat. 1660) is amended—

(1) by amending **section 1442(c)** (88 Stat. 1684) to read as follows:

"(c) There are authorized to be appropriated to carry out the provisions of this section $17,000,000 for the fiscal year ending September 30, 1978.";

(2) by amending **section 1443(a)(5)** (88 Stat. 1684) to read as follows:

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $20,500,000 for the fiscal year ending September 30, 1978.";

(3) by amending **section 1443(b)(5)** (88 Stat. 1685) to read as follows:

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1978."; and

(4) (A) by amending **section 1444(a)** (88 Stat. 1685) by striking out "The Administrator may make grants" and inserting in lieu thereof "The Administrator shall offer grants"; and

(B) by amending **section 1444(c)** (88 Stat. 1686) to read as follows:

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1978.".

SEC. 3. There are authorized to be appropriated to the Environmental Protection Agency for research and development activities under the Safe Drinking Water Act $16,000,000 for the fiscal year ending September 30, 1978.

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Rogers moves to strike out all after the enacting clause of the Senate bill S. 1528 and to insert in lieu thereof the provisions of H.R. 6827, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6827) was laid on the table.

ADMINISTRATION TESTIMONY AT HOUSE HEARING

SAFE DRINKING WATER ACT AMENDMENTS OF 1977

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 5829 and H.R. 6160

BILLS TO AMEND THE PUBLIC HEALTH SERVICE ACT TO AUTHORIZE APPROPRIATIONS FOR CERTAIN FISCAL YEARS FOR PURPOSES OF PROVIDING ASSISTANCE TO THE STATES WITH RESPECT TO SAFE DRINKING WATER

H.R. 5830 and H.R. 6159

BILLS TO AMEND THE PUBLIC HEALTH SERVICE ACT TO EXTEND CERTAIN AUTHORITIES AND AUTHORIZE APPROPRIATIONS FOR CERTAIN FISCAL YEARS FOR PURPOSES OF PROVIDING ASSISTANCE TO THE STATES WITH RESPECT TO SAFE DRINKING WATER, AND FOR OTHER PURPOSES

H.R. 2317

A BILL TO AUTHORIZE GRANTS UNDER THE SAFE DRINKING WATER ACT TO PUBLIC WATER SYSTEMS TO CLEAN AND UPDATE WATERLINES FOR PURPOSES OF MEETING REQUIREMENTS UNDER SUCH ACT, AND FOR OTHER PURPOSES

APRIL 22, 1977

Serial No. 95–9

Printed for the use of the
Committee on Interstate and Foreign Commerce

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1977

SAFE DRINKING WATER ACT AMENDMENTS OF 1977

FRIDAY, APRIL 22, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m. in room 2322 Rayburn House Office Building, Hon. Paul G. Rogers, chairman, presiding.

* * * * * * *

STATEMENT OF VICTOR J. KIMM, DEPUTY ASSISTANT ADMINISTRATOR FOR WATER SUPPLY, ENVIRONMENTAL PROTECTION AGENCY, ACCOMPANIED BY THOMAS A. LARSEN, OFFICE OF GENERAL COUNSEL

* * * * * * *

Note.—Additional material not directly related to legislative proposals was supplied by Administration witnesses to the Subcommittee. Some of that material has been omitted from this legislative history and may be found in the record of the hearing.

Mr. Chairman and members of the Subcommittee. I am Victor J. Kimm, Deputy Assistant Administrator for Water Supply and I am accompanied by Mr. Thomas Larsen of our Office of General Counsel. I welcome this opportunity to report on our efforts to implement the 1974 Safe Drinking Water Act (P.L. 93-523), and to describe the problems we currently face.

These remarks will be organized in the following sequence: a brief review of the major provisions of P.L. 93-523, a survey of accomplishments and the present status of the program, an identification of the major problems facing the program and how we plan to deal with them.

Review of P.L. 93-523

The Safe Drinking Water Act set in motion two major program initiatives, one aimed at ensuring the safety of the Nation's public water supplies and the other designed to protect underground sources of drinking water from contamination through injection wells.

The legislation envisioned a three-step process related to the public water system supervision program.

First, the Agency was to promulgate interim regulations based primarily on an update of the 1962 Public Health Service standards including both maximum contaminant levels and minimum monitoring frequencies.

Second, recognizing the limitations in our knowledge about health effects related to drinking water contaminants, EPA was directed to contract with the National Academy of

Sciences to conduct a two-year investigation of all of the contaminants in drinking water that may have an adverse impact on man.

Third, EPA is directed to promulgate more comprehensive revised drinking water regulations drawing upon the outcome of the NAS study and the results of the Agency research program.

The Safe Drinking Water Act covers an estimated 50,000 community water supplies serving year-round residents and some 200,000 non-community supplies serving the traveling public and other intermittent users. The Interim Regulations which have been promulgated and become effective in June of 1977 set limits for bacteria, turbidity, and a number of inorganic chemicals, pesticides and radiological contaminants. After June, the water utilities will be required to conduct periodic monitoring on a prescribed frequency to ensure compliance with the regulations and notify the public if they exceed the requirements.

The Act envisions that the States will exercise primary enforcement responsibility over the program, with EPA assuming this task only where the States are unable or unwilling to meet minimum requirements contained in the regulations.

The legislation related to the protection of underground sources of drinking water calls for EPA to formulate regulations for the control of underground injection well practices which may endanger present and future groundwater sources of drinking water. These regulations will cover

90-224 O - 82 - 22

many types of injection wells, including practices related to brine disposal and secondary and tertiary recovery of oil and natural gas. EPA must also designate the States for which such programs are appropriate. Thereafter, those States have 270 days to submit a plan to implement the program, after which EPA has 90 days to approve the State plan and grant them primary enforcement responsiblity or to prescribe a program which EPA must then implement.

For both the public water supervision program and the underground injection control program, Federal grants to the States are provided, but continuing eligibility for such assistance is tied to specific deadlines for the assumption of primary enforcement responsibility.

In addition, the Act provides for research, technical assistance, demonstration grants, training and a number of special studies designed to provide important information related to our efforts to ensure the safety of the Nation's public water supplies.

Implementation Strategy

Early in the process, EPA announced a strategy in which we committed ourselves to developing the regulations and major policies related to implementation using an open process through which advice would be sought from all interested parties, including industry, the utilities, and

the States as well as environmentalists and other interested members of the public. Since we expect the States to play a major role in implementing the program, we are especially concerned about building upon their existing expertise and providing them with as much flexibility as is consistent with our legislative mandate.

The establishment in the legislation of an independent National Drinking Water Advisory Council composed of members of State and local government, the water supply industry, and the public has been most helpful in this regard. The Council has been very active; they have provided advice and recommendations on almost all aspects of the program, including our regulations. The Council's public meetings have also provided a forum for interested parties, outside of EPA, to comment on a wide variety of issues facing the program. These activities have been very beneficial to the Agency and we expect them to continue in the future.

Review of Accomplishments and Present Program Status

One of the major activities of the program during the past year has been working with the States to assist them in assuming primary enforcement responsibility for the public water system supervision program. To support this effort, the Agency has so far:

- Published national interim primary drinking water regulations (December 24, 1975);
- Published special monitoring regulations for organic chemicals (December 24, 1975);
- Published State public water system supervision program grant regulations (January 20, 1976);
- Published State Program Implementation Regulations (January 20, 1976);
- Published guidelines for Section 1424(e) for sole source aquifer designation and review of Federal financially assisted projects (December 16, 1975);
- Published an Advance Notice of Proposed Rule Making requesting public comment on the options for the control of organic chemical contaminants in drinking water (July 14, 1976);
- Proposed secondary drinking water regulations dealing with the esthetic quality of drinking water like taste and odor, etc., (March 31, 1976) and
- Published guidelines for State emergency response plans and many other operational aspects of the program.

Among the 56 States and Territories, only two States, Indiana and Pennsylvania, initially indicated that they do not intend to apply for primary enforcement responsibility. Program grants were awarded to all other applicants.

In order to qualify for primacy, a State must have or adopt water supply legislation which provides coverage of all systems serving more than 25 persons and provides a basis for public notification and related enforcement authorities. The State agency responsible for the program

must promulgate implementation regulations and drinking water standards with appropriate provisions for public comment and hearings as required under the administrative procedures of each State.

In practice, this process is quite complex and time-consuming, and it is difficult to project the final outcome due to the large number of interests impacting the process. At this time, EPA expects that about 10 States will fully qualify for Primary Enforcement Responsibility (called "Primacy") by June 24, 1977, the date the Interim Primary Drinking Water Regulations become effective. By September 30, 1977, the beginning of Fiscal Year 1978, we anticipate that 20 States will attain primacy. By the end of calendar 1977, that number should be at least 30. At this time, there are about 10 States where the prognosis for primacy in fiscal year '78 is doubtful.

In support of this effort, EPA has conducted a number of support activities including technical assistance, training and public information. Of particular importance are our efforts to develop a Model State Information System. This is a general automated data processing system which can be installed by interested States on their own

equipment and will facilitate the storage and use of data received from the individual public water systems. The system has been designed to be machine-independent and was developed in cooperation with a committee of State officials. Our efforts will include significant training and installation assistance to help the States adopt the system. We plan to begin installation at the State level this summer and expect to install it in about 30 States this year and 10 more next year.

Among the public information and training efforts EPA has undertaken, the following are worth highlighting:

- o The planning and development of a broad program of public information to reach the general public and those particularly affected by the Act;
- o The development of various training materials for use by States in upgrading the professional skills and knowledge of water treatment plant operators, laboratory technicians, and other personnel required to implement the Act;
- o The distribution and administration of a share of the academic training grant funds appropriated by the Congress for this purpose;

- The award of a grant, as directed by Congress, to the National Rural Water Association, thus funding training and technical assistance for small rural suppliers in the twelve participating States.

Mandatory Studies

It is also appropriate on this occasion to report on our progress with the several studies mandated by P.L. 93-523. We have:

- Completed the Preliminary Assessment of Suspected Carcinogens in Drinking Water Report to Congress;
- Completed a study on Impact on Underground Sources of Application of Pesticides and Fertilizers;
- Completed a Report to Congress--Waste Disposal Practices and their Effects on Groundwater;
- Completed an initial draft now under review of an interim report on the Rural Water Survey to be submitted to Congress in June prior to the completion of the Final report in 1978;
- Initiated a study of viruses in drinking water required by the Act--a final report is expected in Fall of 1977;
- Initiated a study on the impact of pits, ponds, and lagoons on groundwater quality to be completed in August 1978;
- Initiated a study on the prevention of surface spills to be completed in August 1978;
- Initiated a study of underground injection methods which do not endanger underground water sources to be completed in May 1977;
- Initiated a study of the impact of abandoned injection and extraction wells in recharge areas to be completed in May 1977; and

. Been informed that the report on the study by the National Academy of Sciences will be delivered to EPA by mid-May 1977.

Underground Injection Control Program

The Underground Injection Control Program is about to become operational after a lengthy development process. Launching this program has turned out to be extraordinarily difficult due to the large number of injection practices to be regulated; the limited information on many of these practices; the fact that the implementation responsibilities are divided among three to five units of government within most States, and the differences in existing regulatory programs among the States.

Underground Injection Control Regulations and State Grant Regulations were proposed in the Federal Register on August 31, ~~1977.~~ 76 Due to the intense interest in these proposed regulations, the public comment period was extended until January 15, 1977. The Agency has completed a careful review of the comments received and is now formulating final regulations which we expect to promulgate in the next few months.

As part of the program, the Agency is required to list in the Federal Register those States which, in the Administrator's judgement, require an underground injection control program. Our current thinking is initially to designate about 18 States -- those which have the vast

majority of the injection wells to be regulated. Any State may petition EPA to be designated.

In addition, the Agency believes that another disposal practice, namely pits, ponds and lagoons, constitutes a major threat to groundwater sources. Therefore, we plan to provide financial assistance to interested designated and non-designated States for the purpose of inventorying such facilities, assessing their potential impact on ground water, outlining current regulatory efforts at the State level and suggesting appropriate Federal regulatory strategies which would be supportive of State efforts to control such practices. Thereafter, we shall formulate a control strategy using existing statutory authorities under existing EPA legislation or request additional legislation tailored to dealing with the problem.

When the basic elements of the program take final shape, EPA will direct technical assistance, training, and public information activities to those affected by the regulations. In all of these efforts, we plan to continue seeking a broad spectrum of outside views and recommendations.

Major Problems Facing the Program

Perhaps no problem facing the Agency is more complex than the establishment of drinking water standards for

organic contaminants. This problem takes us to the very limits of current scientific knowledge.

Our current assessment of the problem is based primarily on information developed since the passage of the Act about the chemistry of formation, prevalence, health effects, treatment alternatives and their associated costs. We now believe that the organic problem has two fundamentally different parts. The first deals with a family of organic compounds called trihalomethanes including chloroform. These compounds are formed at the treatment plant through the interaction of chlorine and naturally occurring humic acids in the raw water. Chlorine has been used effectively as a disinfectant in water systems for many years and has virtually eliminated many serious waterborne diseases in the United States. Thus, the health benefits of the use of chlorine are substantial and we must insure adequate disinfection practices in the future. The second part of the problem is the presence of small quantities of many man-made and potentially harmful organic contaminants caused by upstream pollution.

Our monitoring studies indicate that the trihalomethanes are all but universally present where conventional chlorination is practiced and that the levels vary over the year

in general proportion to the amount of precursor materials present in the raw water. On the other hand, our 113-city study data indicates that synthetic organic contaminants are randomly distributed and where found exist at relatively low levels. However, this does not mean that synthetic organics do not constitute a problem in some communities.

On the health effects side, there are serious limits to our knowledge. A number of these organic contaminants have been classified as carcinogens by the National Cancer Institute, based on feeding studies of laboratory animals. In addition, EPA has reviewed the epidemiological work of nine independent research groups, all of whom seem to be finding some association between organic contaminants in drinking water and increased cancer rates, although the magnitude of these relationships is far from clear. While much of this work has not yet been completed, these findings indicate a potentially serious public health problem.

In view of the widespread prevalence of the trihalomethanes, EPA concentrated much of its effort on alternative treatment techniques and their associated costs. We believe that a first regulatory effort in this regard

is appropriate at this time, at least for large systems, and we are preparing a proposed regulation setting a maximum contaminant level for trihalomethanes in finished drinking water as an addition to the interim primary drinking water regulations. We expect, initially, to apply the standard to large systems--perhaps those serving more than 75,000 people. Such an approach should enable us to gather experience on alternative control techniques without inadvertently reducing the effectiveness of disinfection. We anticipate that these regulations will be proposed in June.

Our efforts dealing with pollution-related organic contaminants have not moved along as quickly. Attempts to identify general measures for the large number of specific chemicals of cancer have not yet led us to a useful surrogate measure. We anticipate that EPA will begin to regulate the presence of pollution-related organic chemicals in the revised regulations.

As specific problems are discovered and the source of such material can be identified, the Agency has and will take vigorous action to control such discharges at the source. We are thus rapidly closing the loop between EPA's water supply and water pollution control programs. For example, EPA recently took vigorous action to curtail the discharge of carbon tetrachloride into a tributary of the Ohio River.

In addition, our basis for action should be improved when the National Academy of Sciences' study of the health effects of organics has been analyzed.

Economic Impact on Small Communities

Another major problem which will be better understood as the initial monitoring required by the Interim Primary Regulations begins in June, is the potentially serious economic burden faced by some small communities. There are economies of scale in water treatment and the per capita cost of the same level of treatment for small systems is considerably greater than corresponding per capita costs for large systems.

Small systems which become aware that their drinking water violates the standards may have a number of alternatives besides added treatment. For example, they may be able to use an alternative source of higher quality water or purchase good quality water by connecting to a nearby system which has the capacity to serve their needs. However, the exemption process in the law ought to allow adequate short-term flexibility with respect to the economic impact on small systems.

EPA will continue to improve its ability to assess such economic impacts and has:

- prepared an economic impact assessment released with the promulgation of the interim primary regulations;

- o develop a computer model of the industry to facilitate the analysis of the impact of changes in the regulations on water utilities,
- o completed a survey of the financial characteristics of almost 1,000 community water systems,
- o completed cost analyses of alternative levels of trihalomethane standards.

Additional work on the economic impact of our present and future regulations will take place as added information on compliance becomes available.

Comments on Legislative Amendments

EPA supports the extension of authorizations and the other amendments set forth in the Administration Bill forwarded to the Committee on April 6, 1977.

In particular, EPA strongly supports two substantive changes in the legislation that are vital to the orderly progress of the program.

First, specific authority is requested to continue State grants through FY '78 for those States which are

actively working toward the assumption of primacy. If the legislation is not changed, we will be precluded from making State grants in FY '78 until all primacy requirements are met. This could result in a highly undesirable situation in which a discontinuity in Federal grants would create serious budget and operational problems for the States.

Second, the requirement that States formulate Underground Injection Control implementation programs within nine months appears infeasible based on our experience with the public water system supervision program and we recommend that this deadline be extended to 18 months.

Beyond these changes, we believe that the legislative framework is workable as we begin, together with the States, to implement the operational aspects of the program.

Conclusion

We believe that the implementation of the Safe Drinking Water Act is well underway although we face many problems in the future. Our strategy of trying to open up the regulatory process for review and comment by all interested parties appears to be working. The role of the National Drinking Water Advisory Council as an independent forum for periodic outside review has contributed significantly to shaping our actions. While we are dealing with many difficult decisions which take public policy-making and

regulations development to the limits of scientific knowledge, we are confident that the program will be effective and contribute to the safety of the Nation's water supplies in the years ahead.

Mr. ROGERS. Thank you very much.

Dr. Carter?

Mr. CARTER. Thank you, Mr. Chairman.

We have read about many of the problems we have. The chairman has encountered some of them in his State of Florida such as, chloroform in the water, and carbon tetrachloride. However, we did not mention asbestos in the Minnesota area. I would like to ask what has been done about this.

Mr. KIMM. The Congress did in fact provide funding for a demonstration project in Duluth. That construction project has been completed. Essentially it was a $4 million demonstration project, which funded the construction of a filter plant designed to remove asbestos fibers at Duluth. Part of that project, however, is an 18-month evaluation asessment, that is in addition to building the physical facility, we want to see how effectively it works. We also want to try and define the operating parameters which should be used by similar plants in the future.

Mr. CARTER. As far as you can tell, it will take out the asbestos fibers; is that correct?

Mr. KIMM. Yes, sir.

Mr. CARTER. What about this discharge that has been going on. I believe it is in one of the Great Lakes, and that much of it comes from one of the large manufacturing companies in Minnesota.

Is that continuing at the present time or not? Are they still discharging?

Mr. KIMM. Although he is not here in that capacity Tom Larsen has been following that situation for EPA. If I might refer that question he can give you a better assessment.

Mr. CARTER. Does it affect water that is drawn from this particular lake?

Mr. LARSEN. Yes, Dr. Carter. The discharge from the reserve mining facility is continuing into Lake Superior. The risk from the asbestos particles in the water itself has been minimized in the Duluth area because of the installation of the new filter plant. However, the dangers still persist in smaller cities that use the lake as a source of drinking water and we are looking into this. However there has recently been a reversal by the Minnesota Supreme Court which reversed a previous order by the 8th Circuit Court requiring the plant to shut down by this July and it is unclear now as to whether the plant will in fact have to get out of the lake by this July. In fact, they will probably seek an extension of the ability to operate the plant.

Mr. CARTER. But you do have a plant whose purposes is to filter out such particles?

Mr. LARSEN. It is removing 99 percent of the asbestos particles.

Mr. CARTER. At Duluth?

Mr. LARSEN. Yes, sir.

Mr. CARTER. But the other cities along the lake are not protected; is that correct?

Mr. LARSEN. That is correct.

Mr. CARTER. I have been observing your work in other ways and I think you have done and are doing a good job. You mentioned the protection of underground water for protection. Could you elucidate on that a little bit?

Mr. KIMM. We will be prescribing through regulations minimum requirements which will be implemented by the States, and which basically will establish a control program through permits, case-by-case determinations, and through rule making, defining good engineering approaches. That particular part of the act makes it quite clear, we believe, that the burden of responsibility rests with the injector to show that his injection facilities do not endanger drinking water sources.

The UIC regulations will also cover brine disposal and secondary and tertiary activities related to oil and gas production. These are very difficult areas to regulate without significantly disrupting energy production.

Mr. CARTER. Have we had problems with the different aquifers as a result of injection?

Mr. KIMM. There is some evidence of damage or polllution of aquifers associated with injection practices. Unfortunately it is the kind of problem where contamination is a virtually irreversible problem, that is, once the aquifer is contaminated, there isn't very much that you can do about it.

Also, the almost universal presence of groundwater within the boundaries of the United States means that there are many areas of the country about which there is no certainty concerning the quality of groundwater.

Mr. CARTER. What effect would undertaking the studies called for in this bill have on your day-to-day operations?

Mr. KIMM. I assume you mean the longer bill, sir?

Mr. CARTER. Yes, sir.

Mr. KIMM. Perhaps I might run through the additional studies.

Mr. CARTER. The studies that are called for in this particular bill, yes, sir.

Mr. KIMM. Section 3(a) deals with the study of small systems. As I have indicated earlier, we clearly intend to continue our efforts along that line. We have done a fair amount of work and will be doing more in the future. The limiting factor there is not the will to do it, but the availability of reliable data on who is really in and out of compliance.

In section 3(b), the reference to future availability of adequate supplies of drinking water, frankly I think that is a serious problem that needs to be dealt with, but I am very much concerned that with our limited resources, we would be hard-pressed to take on such a broad additional burden at this time.

90-224 O - 82 - 23

Mr. CARTER. Thank you so much for your testimony.

Mr. ROGERS. Mr. Kimm, what is your budget now?

Mr. KIMM. Basically the limitation is more a matter of people than of dollars. All together the water supply program has something in excess of $53 million requested for fiscal year 1978. The increases of the last 2 years have been primarily devoted to increases in the State program grants, which is most critical to getting the program underway.

Mr. ROGERS. About $50 million is your current budget?

Mr. KIMM. Yes, sir.

Mr. ROGERS. And what is proposed in the President's budget?

Mr. KIMM. The President's budget this year includes—I will give you the precise numbers for the record—it includes an increase in State grants of approximately $6 million, an increase in the research area of about $1 million, and it includes another increase of about $1 million in the grant and contract area.

Mr. ROGERS. The total is what then, a total of how much, approximately? You can give us the exact figure for the record. Is it more or less than $50 million?

Mr. KIMM. It is an increase of something between $5 and $7 million over our funding level in fiscal year 1977.

Mr. ROGERS. About $5 million to $7 million, so it is somewhere around $50 million.

Mr. KIMM. Yes, sir.

[The following information was received for the record:]

OFFICE OF WATER SUPPLY

BUDGET SUMMARY
FY 1975 - FY 1978

April 22, 1977

ATTACHMENT I

	FY 1975		FY 1976		FY 1977		FY 1978	
Abatement & Control	$	Pos	$	Pos	$	Pos	$	Pos
Headquarters	1566.1	31	4790.6	57	6798.0	61	7800.0	67
Regions	1642.7	47	1835.3	77	3120.0	124	3284.0	144
Res. Support (Cinn.)	405.1	18my	416.1	18my	416.0	18my	416.0	18my
Research	4559.5	73	8461.0	89	13,227.0	86	15,200.0	91
Enforcement	____	___	81.0	4	154.0	7	154.0	7
Subtotal	8173.4	169	15,584.0	245	23,715.0	296	26,854.0	327
Program Management & Support	-	-	-	-	324.0	6	324.0	6
Grants	-	-	10,000.0	-	21,080.0	-	26,500.0	333
TOTAL	8173.4	169	25,584.0	245	45,119.0	302	53,078.0	

Mr. ROGERS. How many people do you have?

Mr. KIMM. There are 67 people in the Office of Water Supply, and there are approximately 90 people in the research program associated with supporting our activities. There are approximately 144 people currently in the regions associated with the program.

Mr. ROGERS. What do those in the regions do mainly?

Mr. KIMM. The regions have the direct interface with the States, and so are the Agency's operating arm. They are the people in daily communication with the States on a variety of ongoing issues. They also have a set of increased responsibiities related to Indian lands and Federal facilities, as a result of some Supreme Court decisions last year. We are also continuing the Interstate Carrier program, but the primary bread and butter regional activities are working with the States on water supply problems.

Mr. ROGERS. In June you anticipate how many States will assume primary responsibiity?

Mr. KIMM. We assume 10.

Mr. ROGERS. Ten will?

Mr. KIMM. Yes, sir.

Mr. ROGERS. For the record would you let us have those 10 States?

Mr. KIMM. Yes, sir.

Mr. ROGERS. Not now, just for the record.

[The following information was received for the record:]

STATES WHICH WILL ASSUME PRIMACY BY JUNE 24, 1977

Connecticut	Iowa
Oklahoma	Massachusetts
Louisiana	New York
Nebraska	California
Mississippi	Alabama
Arkansas	

Mr. ROGERS. Then you anticipate another 10.

Mr. KIMM. We think that that number will grow to 20 by the end of September.

Mr. ROGERS. Of this year.

Mr. KIMM. Yes.

Mr. CARTER. By the end of the year?

Mr. KIMM. Thirty.

Mr. ROGERS. And what indications from the other States?

Mr. KIMM. There are probably something like 10 States which appear unlikely to take primacy in the immediate future. There are two States that clearly said early in the game that they did not choose to take on primary enforcement responsibility; these were Pennsylvania and Indiana. At the moment there are probably another eight where the prognosis is very poor that they will in fact assume primacy during this calendar year.

Mr. ROGERS. But possibly come in the next.

Mr. KIMM. Hopefully.

Mr. ROGERS. Have you had any reaction of complete rejection by any State as yet?

Mr. KIMM. Yes, Pennsylvania and Indiana initially said they would not take the program. In Pennsylvania what we have done, and I think this is probably a model we will use elsewhere, is to

arrange with the State to continue its water supply activities, and so we will conduct some of the required functions and the State will undertake other functions. We will share the information, and should some subsequent Governor decide that he would like to work with the program, presumably it would be a fairly easy transition of responsibility.

Mr. ROGERS. Who is the Governor who has not wanted this program?

Mr. KIMM. I say the Governor. I don't know that it was personally the Governor. It was the State of Pennsylvania.

Mr. ROGERS. Have they had any water problems?

Mr. KIMM. Pennsylvania is a State with a large number of very old and small water supply systems, and I would expect as the monitoring starts to take place, they are going to discover all kinds of problems.

Mr. ROGERS. Have we had any studies to date that would indicate the severity of the problem in Pennsylvania?

Mr. KIMM. No, we really don't, and as I mentioned earlier, one of our problems is that there has not been in the past consistent monitoring across the country for a variety of contaminants.

Mr. CARTER. Mr. Chairman?

Mr. ROGERS. Yes.

Mr. CARTER. I believe there are a lot of privately-owned water systems in the State of Pennsylvania.

Mr. ROGERS. What about in the Pittsburgh area? I thought you had some rather severe problems there?

Mr. KIMM. There were some severe problems there about 2 years ago; as I remember it some specific remedial activities were undertaken there. One of the impacted systems added granulated activated carbon in its treatment plant. Also we have done a lot of work in and around Philadelphia.

Mr. ROGERS. Let me just ask this before I get away from it.

Do all of the 144 people work exclusively on the drinking water supply problem?

Mr. KIMM. Yes, sir.

Mr. ROGERS. Could you supply for the record a list of those instances of water-related disease outbreaks which have been reported since the 1973 hearings? We would like a record of those, setting forth the extent of the problem and what has been done. I think also it would be good to supply for the record a list of those underground aquifers which have been designated as sole or primary source aquifers under the act, and a list of petitions which have been filed to have the Agency designate other aquifers under this provision.

Also I would think it might be well to supply for the record a copy of the letter which the Agency sent to me in response to my inquiry about the authority you have to protect drinking water from seepage from pits, ponds, and lagoons.

* * * * * * *

Mr. ROGERS. I have a letter from the Governor of Oklahoma, the Honorable David L. Boren, who claims that if your proposed regulations on underground injection were to be carried out, that perhaps it would reduce oil and natural gas production by some 25 percent.

Would you explain the Agency's position on that?

Mr. KIMM. Yes. Probably there is no area of the underground injection control program which has run into more criticism and concern than these. In part the regulations as proposed were not the clearest document we have ever put together, and so in the face of uncertainty one could assume that we were going to take an inflexible approach. Such assumptions have been used by commentators to inflate the damage estimates. I believe that the regulations in the final form will not constitute a serious problem for the oil and gas industry, although clearly there are some practices within their current operations that are undesirable environmentally and from a health perspective and contrary to Part C of the Act. Those should be regulated and either upgraded or terminated. However, I don't think that there is anything that we are doing that has the specter of substantial dislocation of energy production.

Mr. ROGERS. So you do not agree with that statement that that would happen.

Mr. KIMM. I would have to see the basis for the statement, but there is nothing that I am aware of that would cause such a large dislocation.

Mr. ROGERS. I think it might be well that we furnish this letter to you and ask you to make comment on it for the record.

Mr. KIMM. Yes, sir.

[See letter dated June 10, 1977, p. 83.]

Mr. ROGERS. I notice there were reports in the newspaper originally from Oklahoma City that they have the possibility of rather severe salt intrusion into their freshwater wells, and into the third largest underground freshwater basin. It would appear that oil producers, by injecting salt water are probably responsible for such contamination, and with the severe shortage of water that we are experiencing in many parts of the country, I think this is one of our main concerns, that we simply don't ignore one problem for another.

Now what would be your feeling about giving primary responsibility to municipalities or cities, if the State does not move in to assume a proper role?

Mr. KIMM. In many instances where the municipality owns and operates the water supply system, this might become a bit difficult. Also there is a problem of numbers, but it would seem to me that there are probably situations in which some kind of a sharing of responsibilities between the State and municipalities would be feasible, and in practice local health departments in many States carry out some of the water supply supervision activities.

Mr. ROGERS. You think it would be well then in the law to permit a choice, if a State refuses? If a State assumes it I would think that would be fine, but if it doesn't, then perhaps we should.

Mr. KIMM. Frankly that is a new one on me. I would like to think a little bit about it. The flexibility of doing it I think is desirable. We would have to think of a way of making it workable just in terms of numbers of people to be dealt with, et cetera.

Mr. ROGERS. Yes. I understand. I think it might be well for you to look at that and let us have your reaction.

Mr. ROGERS. What have your studies that were mandated by the public law shown? What have been the results of those studies?

Mr. KIMM. We have a large number of such studies.

Mr. ROGERS. I think you completed three.

Mr. KIMM. Yes, sir. The rest are all under preparation.

Mr. ROGERS. Yes, if you will let us know for the record on that.

Mr. KIMM. That is in my testimony.

Mr. ROGERS. Just summarize the main points.

Mr. KIMM. I am feverishly looking for the list.

Mr. ROGERS. Page 9.

Mr. KIMM. The study of carcinogens was the first time we pulled together all of the data that we had, and that was very instrumental in setting priorities as we revamped the entire water supply research program in 1975 to focus on organic contamination. That was really a very helpful study in terms of us getting ourselves together to proceed on the problem

The study of pesticides and fertilizers provided enough data to convince us in the short run that the problem wasn't as serious as we had thought earlier. The contractor analyzed raw and finished water samplings from 350 communities and did not find many pesticides in the finished water.

The waste disposal report to Congress focused on the question of pits, ponds, and lagoons. Many State people reviewed our findings and suggested that surface impoundments in many parts of the country are more of a threat to groundwater than injection wells we were proposing to control in the UIC regulations. This led us to a decision to split our efforts to pursue injection wells as we have, as well as develop additional information on pits, ponds, and lagoons.

The rural water survey is a rather complicated situation. We have basically adopted a 3-phase approach. We will have an interim report shortly based primarily on material that has been published to date. With this material we will identify the factors that appear to be key bottlenecks limiting drinking water quality in rural areas. The second phase of the project will be a sample survey which will involve both analyzing drinking water samples and a questionnaire to see if we can confirm that the particular bottlenecks which have been identified in the past are truly associated with poor quality water. The third phase will be a final report which will include the data collected and the major findings of our studies.

The rest of the studies are all at particular points of development.

Mr. ROGERS. If you will let us know for the record. Also the impact on underground sources in the application of pesticides and fertilizers. I would like to have the specific findings. Of course I presume the staff has these reports or they have been furnished. If not, they should be furnished to the staff.

Mr. KIMM. Yes, sir.

* * * * * * *

Mr. ROGERS. Dr. Carter?

Mr. CARTER. I would like to know about trihalomethanes which come from interaction of the humic acids that you mentioned. Are they carcinogenic?

Mr. KIMM. Yes, sir. It is a very complicated kind of problem. The end products of that interaction of chlorine and material are the trihalomethanes we have measured in our surveys. These materials include chloroform which the NCI found to cause increased cancer rates in animal studies. In terms of the effect on humans, there is a debate within the scientific community as to whether animal studies are conclusive indicators of effects on humans. However, EPA has always assumed that chemicals which are carcinogenic in animals are matters of serious concern concerning human exposure.

As we get more epidemiological information, we think we will have an improved basis for regulatory action. However, there continues to be scientific debate about scaling exposure levels from animals to people.

However, the agency's approach consistently has been to try to minimize human exposure whenever it is feasible to do that for materials that cause increased cancer rates in experimental animals.

Mr. ROGERS. It is just about universally present. I notice you state where conventional chlorination is practiced, and in that case it might present quite a problem.

Mr. KIMM. The first thing we obviously looked at was the question of alternative disinfectants and there are three or four prime candidates. However, all of the materials that are active enough to be effective disinfecting agents all have chains of disintegration products that are very active and in some instances not a great deal is known about their health effects. Chlorine dioxide, chloramines, and ozonation are among the alternative disinfectants under study. We are trying to bring together the best information we have and make that available to all interested parties.

An alternative approach is treatment. We know that with sharpening up our treatment process, we can effect a 15 or 20 percent reduction in the trihalomethanes just by getting the water cleaner before it is chlorinated. Beyond that we can add absorption to our treatment trains, like granulated activated carbon to remove organic materials.

Mr. CARTER. Almost all of our water is chlorinated, isn't it?

Mr. KIMM. The vast majority of it, yes, sir.

Mr. CARTER. And almost all of it contains humic acid you say; is that correct?

Mr. KIMM. Yes, sir.

Mr. CARTER. You made that statement. It seems to me to be quite a problem. Trihalomethanes are quite prevalent in every bit of the water we drink, and they are carcinogenic, according to what I believe you state here.

Thank you, Mr. Chairman.

Mr. ROGERS. I think it would be well for you to set forth in the record all of the new methods of treatment that have been proved out, and those that have been set forth that offer great promise.

[See letter dated June 10, 1977, p. 83.]

Mr. ROGERS. What additional measures other than the two if any is the administration's recommendation for this year's legislation; any?

Mr. KIMM. None.

Mr. ROGERS. Those two. Do you recommend an increase in funding for grants to communities that may have some difficulties?

Mr. KIMM. The current administration really has not dealt with that problem yet, but it is a matter that they will have to address.

Mr. ROGERS. What about the Agency's strategy for dealing with contamination which results from lead or cast iron water pipes? Would you set forth that for the record?

[The following information was received for the record:]

OWS STRATEGY TO CONTROL HIGH LEAD LEVELS IN DRINKING WATER

A. The National Interim Primary Drinking Water Regulations, promulgated on December 24, 1975, to become effective June 24, 1977, contain a Maximum Contaminant Level for lead of 0.05 milligrams per liter. On January 11, 1977, OWS issued a guidance memorandum, directed to Regional personnel and other holders of Water Supply Guidance Manuals, recommending that no variances or exemptions be granted for lead in drinking water. As outlined in the guidance memorandum, this recommendation was based on the fact that lead levels can be readily controlled and on the fact that excessive lead levels constitute an unreasonable risk to health.

In May 1977, OWS, in cooperation with the Water Supply Research Division, ORD, is publishing a "Manual of Treatment Techniques for Meeting the Interim Primary Drinking Water Regulations." That Manual outlines the techniques applicable to the reduction of lead levels when lead is present in source waters.

On March 31, 1977, OWS proposed National Secondary Drinking Water Regulations containing Secondary Maximum Contaminant Levels for corrosivity and pH. These two interrelated parameters are major factors in the occurrence of lead in drinking water resulting from the use of lead pipe. In individual cases, OWS, through the Regional water supply staffs, is cooperating with States and municipalities in activities designed to reduce lead levels where lead pipe is in use. Typical programs now in operation are in Boston, where the water is being treated with stabilizing chemicals, and Bennington, Vermont, where corrosion control is being incorporated into the treatment plant design. Emergency measures are in effect in Bennington pending completion of the treatment plant, as outlined in the attached summary.

BENNINGTON, VERMONT

The water supply of Bennington, Vermont, is very low in hardness and alkalinity, which results in a highly corrosive water. The situation is compounded by the fact that as many as 30% of the service connections may have lead service lines leading from the water mains to the housing units.

An investigation of blood lead levels, carried out by CDC in connection with a storage battery plant, revealed that Bennington citizens were exposed to lead from other than industrial sources. This is apparently what led to the discovery of the

lead pipe problem in the water system. The State of Vermont, the town of Bennington, the Board of Water Commissioners and the EPA Regional Office were apprised of the situation and began taking action immediately. Those actions are as follows:

1. Public watering points have been established from which citizens can obtain lead-free water for drinking and culinary purposes.

2. The final design of a filtration plant is approximately 90% completed, and the design engineer has been instructed to include corrosion control treatment in the plant.

3. The Vermont Department of Health has consulted with the medical staff of the hospital to assure awareness of the problem in the medical staff.

4. The problem has received extensive State, local and regional publicity.

A local citizen, Mr. C. Frank Velkas, has requested that the Administrator of EPA take action under Section 1431 of the Safe Drinking Water Act, but since emergency corrective measures are already under way, it appears that EPA action is unnecessary.

Analyses of Bennington water have revealed that lead concentrations are as much as eight times the MCL of 0.05 mg/l. Citizens have been cautioned to flush water lines before using, particularly when the water has remained in the pipe overnight. The EPA Regional Office is continuing to monitor the situation and will report periodically to the Administrator.

Mr. ROGERS. I would like to know for the record what your strategy will be for helping rural areas attain compliance with the act, and what problems are peculiar to rural drinking water systems, and do employees of these systems have requisite experience in educational background, and here again possible alternative drinking water systems for rural areas?

[See letter dated June 10, 1977, p. 83.]

Mr. ROGERS. I think too it would be well to have a comment on the finding of the U.S. Geological Survey in Oklahoma. It appears to be the Geological Survey agency is doing more than we are in finding out about the infiltration of salt water into the freshwater supplies; is that true or not? Do you use them or do we have our own people looking at that?

Mr. KIMM. We have a number of contracts with them. They are doing work for us.

Mr. ROGERS. You do it mainly by contract. Do you use any private contractors?

Mr. KIMM. We have used private contractors as well.

Mr. ROGERS. Set forth for us in the record what contracts are existing, what has resulted from them and the cost, the numbers involved.

Mr. ROGERS. What about the record of States planning for deep well injections since the passage of the law. Could you give us a comment for the record on that?

Mr. ROGERS. I would also like for you, for the record, to clarify the Federal facilities issue. In other words, how do you handle Federal facilities? Are we doing anything about Federal facilities or are we exempted? Could you tell us that quickly? Yes?

Mr. KIMM. Yes. We originally assumed that the States would control them. In line with the Supreme Court decision we now assume the States will not and we are working through interagency agreements under which EPA will assure compliance with the Interim Primary Drinking Water Regulations.

Mr. ROGERS. Do you have sufficient statutes and laws to assure the facilities to comply?

Mr. KIMM. I believe so, yes, sir.

Mr. ROGERS. Let us know and set that forth for the record.

[The following information was received for the record:]

EPA'S POSITION RELATED TO FEDERAL FACILITIES

In *Hancock v. Train*, 96 S. Ct. 2006 (1976) and *EPA v. California State Water Resources Board*, 96 S. Ct. 2022 (1976), the Supreme Court held that a State could not exercise jurisdiction over Federal agencies unless Congress "clearly and unambiguously" waived the sovereign immunity of the Federal agencies. In the enclosed memorandums, EPA's General Counsel found that Section 1447 of the Safe Drinking Water Act does not clearly and unambiguously subject Federal agencies to unfettered State jurisdiction. Rather, the General Counsel determined that States could exercise jurisdiction over public water systems within the State which are owned or operated by Federal agencies if the applicable State regulations are no more or no less stringent than national primary drinking water regulations established under Section 1412 of the Act. In light of EPA's requirements for State primary enforcement responsibility (40 CFR sec. 142.10), this determination effectively requires a State to establish a separate set of regulations in order to regulate federal facilities.

Accordingly, the Office of Water Supply has determined that the implementation regulations should be amended to make it clear that States are not *required* to assume jurisdiction over Federal facilities in order to qualify for primary enforcement responsibility (see, 40 CFR sec. 142. 3(b) (3)). In fact, the Office of Water Supply does not encourage States to seek primary enforcement responsibility over Federal facilities. Federal agencies have facilities located in many States, and, administratively, it is easier to regulate a system of military installations, for example, through an office in Washington than it is to regulate the system through an *ad hoc* patchwork of State and Federal regulations within the States. However, States may regulate public water systems operated by Federal agencies if they apply standards no more stringent than the national standards.

Mr. ROGERS. What program do you have for controlling sodium in the drinking water? Do you require any notice, or do you have authority to require notice to consumers as to the presence of a concentration of unregulated pollutants in drinking water, or would you need that? I know the actual standards being set, that notice is given. What about those which may appear but are not really regulated? Must notice be given or can you do that?

Mr. KIMM. I will let Tom pick up on the law. Basically what we did in the case of sodium was to put in regulations, recommendations to the States that they all do what many of them now do which is monitor and inform the health community so that they can advise people on sodium.

Mr. ROGERS. Set forth what you plan, and if you need additional authority on that.

[The following information was received for the record:]

EPA CANNOT REQUIRE PUBLIC WATER SYSTEMS TO MONITOR AND REPORT SODIUM LEVELS WITHOUT AN MCL

EPA cannot require a public water system to monitor and report to the public levels of a particular contaminant in drinking water in the absence of a national primary drinking water standard for the contaminant.

Section 1445(a) of the Safe Drinking Water Act authorizes monitoring in the absence of a national primary drinking water standard. However, it only authorizes EPA to require a public water system to report back to EPA—not to the persons served by the system.

Conceivably, EPA has authority to require systems to monitor and report to the public in the absence of a standard under Section 1450 of the Act—the general power provision. However, the Office of General Counsel does not believe that Congress intended to allow EPA to adopt a new scheme of regulation on the basis of the general powers provision.

Mr. ROGERS. Thank you for being here. We will be in touch with you as we go along. We appreciate your presence today.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

June 10, 1977

Honorable Paul G. Rogers
Chairman, Subcommittee on Health
and the Environment
Committee on Interstate and
Foreign Commerce
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

The following materials are provided in response to questions posed at the oversight hearing for the Safe Drinking Water Act on April 22, 1977. Materials provided to the Committee earlier respond to the other questions posed at the hearing.

Comments on letter from Governor Boren on impact of UIC regulations.

As requested we have reviewed the basis for Governor Boren's letter of April 11, 1977, expressing alarm over the potential serious impact on oil and gas production in Oklahoma if the UIC regulations are promulgated as proposed in the Federal Register.

In checking with Mr. Sam F. Shakely, Manager of Pollution Abatement, Oklahoma Corporation Commission, we learned that these estimates are based primarily on the impact of two provisions of the proposed regulations.

First - Section 146.42(a)(1) and (a)(3).

These sections require surface casing and cement thru 3,000 mg/l TDS and long string cement to prevent migration.

Discussion - Wells drilled prior to 1932 did not use cement and therefore cannot meet this requirement. However, according to Mr. Shakely, they will be able to show non-endangerment.

Second - Section 146.42(a)(6).

This section requires proper plugging or completion of the wells within a 1/2 mile radius which "in the judgement of the Director" present a potential threat to underground drinking water sources.

Discussion - Plugging and abandonment techniques of the 1930's did not protect fresh water adequately. However, Mr. Shakely states that based on a history of non-contamination, he believes these wells are properly abandoned and plugged. Therefore, the "judgement of the Director" would be that they did not present a "potential threat."

Based on this discussion with Mr. Shakely and the revisions currently being developed, it appears that the adverse impacts caused by the above sections will be significantly reduced or virtually eliminated in the final regulation. Mr. Shakely's statement regarding plugging indicates that section 146.42(a)(6) was misinterpreted.

Thus the assessment of potential dislocation was due in part to a misunderstanding of the regulations as proposed and in part due to some inflexibility in the regulations. In the revisions currently being developed we expect to provide the States with added flexibility to deal with localized conditions wherever it is possible to do so without endangering underground sources of drinking water.

Grants to municipalities in States without primacy.

We believe that granting primacy to cities is not practical. In general, cities only have one water system in each city and in large numbers of cases the water supply is a municipal supply run by the city itself. For example, if we granted primacy to 200 cities we might only have 300 public water systems receiving surveillance and many of these public water systems would be operated by another agency of the city with primacy.

A better alternative might be to allow counties to obtain grants for primacy activities in States where EPA has primacy. Many counties have quite effective local health departments and are providing surveillance activities throughout the county now. EPA would have a relatively small number of counties to deal with but the counties could provide surveillance over large numbers of small community and non-community water supplies. These small supplies will be the ones which have most of the problems. In addition, a very small percentage of the water supplies in a county would be owned or operated by the county. This would minimize the problem of the surveillance agency enforcing requirements against itself.

Allowing cities or counties to obtain primacy would require changes to the Act, the Implementation Regulations, and the Program Grant

Regulations. It would be of short-term assistance to EPA, but we believe it would hinder our long-term goal of granting primacy to States. EPA would prefer to retain primacy until the States are ready to accept it. During the interim period it would be beneficial to be able to contract with selected County Health Departments for negotiated surveillance activities. This would allow EPA to obtain the field services of trained local personnel and still be in a position to eventually grant primacy to the States.

EPA's strategy for helping rural water systems

EPA is in the process of formulating its strategy for dealing with the problem of small (mostly rural) public water systems. Three sets of activities will contribute to this effort.

First, as the Interim Primary Drinking Water Standards take effect in June 1977, public water systems will begin to monitor and report the results of bacteriological and chemical analyses of their water. This will give the Agency a more firm estimate of the extent of the problem. As violations of the chemical standards are discovered, many of the affected systems will be granted variances or exemptions, if the requirements of the Act are met.

Second, EPA is already beginning a major study of the problems of small systems along the lines of the study required by the amendments under consideration by the Committee. We now have underway some preliminary overall assessment of the problem and several contracts to provide better estimates of the costs and applicability of treatment technologies for small systems. Further studies will focus on the nature and magnitude of the problems, alternatives available to effected systems, costs, and options for Federal actions (including various subsidy proposals).

Finally, the Rural Water Survey will improve our understanding of both smaller systems and the drinking water problems of people served by individual water systems.

With the results of these activities, EPA will be able to make informed recommendations to the Congress on ways to deal with this serious problem.

Other questions

The following items are attached in response to other questions:

(1) A copy of EPA's Interim Treatment Guide for the Control of Chloroform and Other Trihalomethanes, which describes the available treatment technologies for removal of these contaminants from drinking water.

*May be found in the committee's files.

(2) A list of EPA's contracts relating to the extent of groundwater contamination.

(3) A list of the 18 States we plan to designate as requiring a program to control underground injections.

(4) Responses to questions on ultraviolet disinfection.

If you need additonal information in any of these areas, please let me know.

Sincerely,

Victor J. Kimm
Deputy Assistant Administrator
for Water Supply (WH-550)

Enclosures

List of Designated States

Arkansas
California
Colorado
Florida
Illinois
Indiana
Kansas
Kentucky
Louisiana
Michigan
Mississippi
New Mexico
New York
Ohio
Oklahoma
Pennsylvania
Texas
West Virginia

Contracts and Grants Relating
to Ground Water Contamination

1. Title: Report to Congress "Waste Disposal Practices and Their Effects on Ground Water"
   Contract Number: 68-01-3215
   Status: Final Report Completed
   Contract Value: $250,000

2. Title: "A Study to Determine the Nature and Extent of Industrial and Municipal Surface Impoundments on Underground Sources of Drinking Water"
   Contract Number: 68-01-4342
   Status: Draft Report Due in July
   Contract Value: $225,000

3. Title: "Preliminary Evaluation of Well Injection Practices"
   Contract Number: 68-01-4417
   Status: Final Report Completed
   Contract Value: $68,000

4. Title: "System for Evaluation of Ground Water Contamination Potential from Waste Disposal Sites"
   Contract Number: 68-01-4405
   Status: Draft Report Completed
   Contract Value: $31,000

5. Title: "Impact of Abandoned Wells on Ground Water"
   Grant Number: R80-388-901
   Status: Draft Report Completed
   Grant Value: $142,000

CHAPTER V

SAFE DRINKING WATER ACT (PUBLIC LAW 93-523); PRESIDENTIAL STATEMENT; H.R. 13002, AS REPORTED, JULY 12, 1974; HOUSE REPORT (93-1185); HOUSE DEBATE: DECEMBER 3, NOVEMBER 19, 1974; THE PRESIDENT'S MESSAGE, SEPTEMBER 10, 1973; ADMINISTRATION TESTIMONY AT HOUSE HEARINGS: MARCH 8, 1973; S. 433, AS INTRODUCED, JANUARY 18, 1973; SENATE REPORT (93-231); SENATE DEBATE: NOVEMBER 26, 1974, JUNE 22, 1973; ADMINISTRATION TESTIMONY AT SENATE HEARING: MAY 31, 1973; OTHER LEGISLATIVE PROPOSALS; THE PRESIDENT'S MESSAGE, FEBRUARY 15, 1973

90-224 O - 82 - 24

Public Law 93-523
93rd Congress, S. 433
December 16, 1974

An Act

To amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safe Drinking Water Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act". 42 USC 300f, note.

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after title XIII the following new title: 42 USC 201 note. 88 STAT. 1660 88 STAT. 1661

"TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

"PART A—DEFINITIONS

"DEFINITIONS

"SEC. 1401. For purposes of this title: 42 USC 300f.

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

Post, p. 1662.

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

"(3) The term 'maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

88 STAT. 1661
88 STAT. 1662

"(5) The term 'supplier of water' means any person who owns or operates a public water system.

"(6) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(7) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) The term 'Agency' means the Environmental Protection Agency.

"(9) The term 'Council' means the National Drinking Water Advisory Council established under section 1446.

"(10) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

"(11) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, or municipality.

"PART B—PUBLIC WATER SYSTEMS

"COVERAGE

42 USC 300g.

"SEC. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

"(3) which does not sell water to any person; and

"(4) which is not a carrier which conveys passengers in interstate commerce.

"NATIONAL DRINKING WATER REGULATIONS

42 USC 300g-1.

"SEC. 1412. (a)(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

"(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title. 88 STAT. 1662

"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect eighteen months after the date of their promulgation. 88 STAT. 1663

"(b)(1)(A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the— Publication in Federal Register.

"(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

"(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list. Recommended maximum contaminant levels.

"(2) On the date the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate. Publication in Federal Register.

"(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1)(B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (1)(B) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (1)(B) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall

require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term 'feasible' means feasible with the use of the best technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

"Feasible."

"(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 3 years.

"(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect eighteen months after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

"(6) No national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

Proposed national secondary drinking water regulations, publication.

"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

"(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

Hearing.

Study.

"(e)(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

Report to Congress.

"(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

"(3) In developing its proposals for recommended maximum contaminant levels under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

"(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

"(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

"(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

"(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

"(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

"(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress. Report, submittal to OMB.

"(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (2) of this subsection. Funds.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State— 42 USC 300g-2.

"(1) has adopted drinking water regulations which (A) in the case of the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) in the case of the period after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;

"(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416; and

"(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

Regulations. "(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

Notice and hearing.

Publication in Federal Register.

Notice.

Applications. "(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and notify the applicant in writing of the reasons for his denial.

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

42 USC 300g-3. "SEC. 1414. (a)(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

Notice. he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time.

"(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

Notice.

Civil action.

"(i) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to subparagraph (A): and

"(ii)(α) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence; or

"(β) the State submits such report within such period but the Administrator, after considering the report, determines that the State abused its discretion in carrying out primary enforcement responsibility for public water systems by both—

"(I) failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time, and

"(II) failing to assure by such day the provision through alternative means of safe drinking water by the earliest feasible time;

the Administrator may commence a civil action under subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State— Civil action.

"(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b).

"(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

"(1) authorized under paragraph (1) or (2) of subsection (a), or

"(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter, in an action brought under this subsection, such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies; and, if the court determines that there has been a willful violation of the regulation or schedule or other requirement with respect to which the action was brought, the court may, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, impose on the violator a civil penalty of not to exceed $5,000 for each day in which such violation occurs. Judicial determination. Penalty.

"(c) Each owner or operator of a public water system shall give notice to the persons served by it— Notice.

"(1) of any failure on the part of the public water system to—

"(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

"(B) perform monitoring required by section 1445(a), and

"(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(A) the existence of such variance or exemption, and

"(B) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

Regulations. The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), shall be furnished to the other communications media serving such area, and shall be furnished to the communications media as soon as practicable after the discovery of the violation with respect to which the notice is required. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

Penalty.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

Notice.

"(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

Notice and public hearings.

"(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

"(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

"VARIANCES

"SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows: 42 USC 300g-4.

"(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the best technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph, the State shall prescribe within one year of the date the variance is granted, a schedule for—

"(i) compliance (including increments of progress) by the public water system with each contaminant level requirement with respect to which the variance was granted, and

"(ii) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subparagraph may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice. A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine). Notice and hearing.

"(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

"(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator Notice and hearing. Notice to Administrator.

of all variances granted by it. Such notification shall contain the reason for the variance (and in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

Compliance; enforcement.

"(D) Each public water system's variance granted by a State under subparagraph (A) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to that subparagraph. The requirements of each schedule prescribed by a State pursuant to that subparagraph shall be enforceable by the State under its laws. Any requirement of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under subparagraph (G) or the schedule is revised by the Administrator under such subparagraph.

Review of variances and schedules.

"(F) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of variances and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other information concerning new scientific matters bearing on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

Publication in Federal Register.

Publication in Federal Register.

"(G)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to prescribe schedules in accordance with subparagraph (A), the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variances were complied with. A notice under this clause shall—

Notice to State.

"(I) identify each public water system with respect to which the finding was made,

"(II) specify the reasons for the finding, and

"(III) as appropriate, propose revocations of specific variances or propose revised schedules or other requirements for specific public water systems granted variances, or both.

"(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised schedules or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence. Notice and hearing.

"(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a schedule or other requirement for a variance and if, before a revocation of such variance or a revision of such schedule or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or schedule or other requirement which the Administrator determines makes his finding inapplicable to such variance or schedule or other requirement, the Administrator shall rescind the application of his finding to that variance or schedule or other requirement. No variance revocation or revised schedule or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule or other requirement was proposed.

"(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

"(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

"(b) Any schedule or other requirement on which a variance granted under paragraph (1)(B) or (2) of subsection (a) is conditioned may be enforced under section 1414 as if such schedule or other requirement was part of a national primary drinking water regulation.

"(c) If an application for a variance under subsection (a) is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission. Applications for variances. Regulations.

"(d) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3). "Treatment technique requirement."

"EXEMPTIONS

42 USC 300g-5.

"SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system witnin the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

"(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement,

"(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement, and

"(3) the granting of the exemption will not result in an unreasonable risk to health.

"(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

"(A) compliance (including increments of progress) by the public water system with each containment level requirement and treatment technique requirement with respect to which the exemption was granted, and

"(B) implementation by the public water system of such control measures as the State may require for each containment, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Notice and hearing.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

"(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, 1981; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

"(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

Compliance; enforcement.

"(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

Notice to Administrator.

"(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption (including the basis for the finding required by subsection (a)(3) before the exemption may be granted) and document the need for the exemption.

Review of exemptions and schedules.

"(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

Publication in Federal Register.

Publication in Federal Register.

"(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. In determining if a State has abused its discretion in granting exemptions in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the exemptions and if the requirements applicable to the granting of the exemptions were complied with. A notice under this subparagraph shall—

Notice to State.

"(i) identify each exempt public water system with respect to which the finding was made,

"(ii) specify the reasons for the finding, and

"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

Notice and hearing.

"(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

"Treatment technique requirement."

"(e) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

Applications for exemptions.

"(g) If an application for an exemption under this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR STATE PROGRAMS

42 USC 300h.

"SEC. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities. Hearing.

"(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

"(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

"(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers drinking water sources;

"(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

"(D) shall apply (i) as prescribed by section 1447(b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

"(2) Regulations of the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

"(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if— Temporary permits.

"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

"(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

"(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)), but after reasonable notice and hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State finds, on the record of such hearing—

Notice and hearing.

"(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

"(d) For purposes of this part:

"Underground injection."

"(1) The term 'underground injection' means the subsurface emplacement of fluids by well injection.

"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

Publication in Federal Register.
42 USC 300h-1.

"SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

"(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

"(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

Recordkeeping.

"(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

Notice to Administrator.

"(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administra-

tor may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

"(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

"(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule. Hearing.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede— Regulation.

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation. Hearing.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c). "Applicable underground injection control program."

"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

"SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report 42 USC 300h-2. Notice to State and violator. Public notice.

within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

Civil action, conditions.

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

"(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

"(b)(1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

Penalty.

Penalty.

"(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources (A) shall be subject to a civil penalty of not more than $5,000 for each day of such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (B), be fined not more than $10,000 for each day of such violation.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"INTERIM REGULATION OF UNDERGROUND INJECTIONS

42 USC 300h-1.

"SEC. 1421. (a)(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering

such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

Publication in Federal Register.

"(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

"(b)(1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

Well operation permit.

"(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

Publication in Federal Register.

Conditions for issuance.

"(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

Penalty.

"(c) Any person who operates a new underground injection well in violation of subsection (b), (1) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs, or (2) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (1), be fined not more than $10,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

Temporary restraining order or injunction.

"(d) For purposes of this section, the term 'new underground injection well' means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

"New underground injection well."

Areas with one aquifer.

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would

Publication in Federal Register.

create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

"PART D—EMERGENCY POWERS

"EMERGENCY POWERS

42 USC 300i.

"SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. The action which the Administrator may take may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

Consultation with State and local authorities.

Penalty.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day in which such violation occurs or failure to comply continues.

"PART E—GENERAL PROVISIONS

"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

Certification of need application.
42 USC 300j.

"SEC. 1441. (a) If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a 'certification of need') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

Application requirements.

"(b)(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require

and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

"(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

Publication in Federal Register.

Waiver.

"(3) Within 30 days after—

"(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

"(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

Certification, issuance or denial.

"(c)(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

"(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

Apportionment.

"(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

"(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

"(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

Application for additional certifications.

"(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

"(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

Noncompliance, penalties.

"(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

"(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

Temporary restraining order, preliminary or permanent injunction.

"(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a temporary restraining order or preliminary or permanent injunction (including a mandatory injunction) to enforce the provision of such order.

Termination dates.

"(f) No certification of need or order issued under this section may remain in effect--

"(1) for more than one year, or

"(2) after June 30, 1977,

whichever occurs first.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

42 USC 300j-1.

"SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

"(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

Technical assistance to States.

"(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

Post, p. 1684.

Studies; reports to Congress.

"(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

Ante, p. 1662.

Waste disposal, survey and study, transmittal to Congress.

"(4) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

"(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

Studies.

"(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

Transmittal to Congress.

"(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

"(b) In carrying out this title, the Administrator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be

determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d))).

Appropriations.

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR STATE PROGRAMS

Public water system supervision programs.
42 USC 300j-2.

"SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

"(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for public water systems within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

Allotment of sums.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. No State shall receive less than 1 per centum of the annual appropriation for grants under paragraph (1): *Provided*, That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further*, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

Appropriations.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

"(b)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs. Underground water source protection programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within two years from the date of such grant an underground water source protection, and

"(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors. Allotment of sums.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977. Appropriations.

"(c) For purposes of this section: Definitions.

"(1) The term 'public water system supervision program' means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3). Ante, pp. 1669, 1672. Ante, p. 1662.

"(2) The term 'underground water source protection program' means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii). Ante, p. 1665. Ante, p. 1674. Ante, p. 1676.

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

"SEC. 1444. (a) The Administrator may make grants to any person for the purposes of— 42 USC 300j-3.

"(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology, for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling,

and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

Limitations.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations:

"(1) Grants under this section shall not exceed $66\frac{2}{3}$ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

"(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

Appropriations.

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

Loan guarantees to public water systems.

"(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot reasonably obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

Conditions.

Ante, p. 1662.

Indebtness, limitation.

Regulations.

"RECORDS AND INSPECTIONS

42 USC 300j-4.

"SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b)(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a national primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or person in charge of any of the property of such supplier or other person), is authorized to enter any establishment, facility, or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

Ante, p. 1662.

Audit and examination of records.

"(2) No entry may be made under the first sentence of paragraph (1) in an establishment, facility, or other property of a supplier of water or other person subject to a national primary drinking water regulation if the establishment, facility, or other property is located in a State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. No State agency which receives notice under this paragraph of an entry proposed to be made under paragraph (1) may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; and if a State agency so uses such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice under this paragraph.

Entry restrictions.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) may be fined not more than $5,000.

Penalty.

"(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

Confidential information.

"(2) Any information required under this section (A) may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this title or to committees of the Congress, or when relevant in any proceeding under this title, and (B) shall be disclosed to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the

Information disclosure.

"Information required under this section."

term 'information required under this section' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"Grantee."

"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term 'person' includes a Federal agency.

"Person."

'NATIONAL DRINKING WATER ADVISORY COUNCIL

Establishment; membership.
42 USC 300j-5.

"SEC. 1446. (a) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

Term of office, exceptions.

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

Functions.

"(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

Compensation.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

5 USC 5332 note.

86 Stat. 776.

"(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

42 USC 300j-6.

"SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412, and each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

Ante, p. 1662.

Recordkeeping; reports.

Waiver.

"(b) The Administrator shall waive compliance with subsection (a) upon request of the Secretary of Defense and upon a determination

by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

Records, availability.

Publication in Federal Register.

Notice to congressional committees.

"JUDICIAL REVIEW

"SEC. 1448. (a) A petition for review of—

42 USC 300j-7.

"(1) action of the Administrator in promulgating any national primary drinking water regulation under section 1412, any regulation under section 1413(b)(1), any regulation under section 1414(c), any regulation for State underground injection control programs under section 1421, or any general regulation for the administration of this title may be filed only in the United States Court of Appeals for the District of Columbia Circuit; and

"(2) action of the Administrator in promulgating any other regulation under this title, issuing any order under this title, or making any determination under this title may be filed only in the United States court of appeals for the appropriate circuit.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulation or issuance of the order with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

"(b) The United States district courts shall have jurisdiction of actions brought to review (1) the granting of, or the refusing to grant, a variance or exemption under section 1415 or 1416 or (2) the requirements of any schedule prescribed for a variance or exemption under such section or the failure to prescribe such a schedule. Such an action may only be brought upon a petition for review filed with the court within the 45-day period beginning on the date the action sought to be reviewed is taken or, in the case of a petition to review the refusal to grant a variance or exemption or the failure to prescribe a schedule, within the 45-day period beginning on the date action is required to be taken on the variance, exemption, or schedule, as the case may be. A petition for such review may be filed after the expiration of such period if the petition is based solely on grounds arising after the expiration of such period. Action with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

Jurisdiction.

"(c) In any judicial proceeding in which review is sought of a determination under this title required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence and shows to the satisfaction

of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"CITIZEN'S CIVIL ACTION

42 USC 300j-8.

"SEC. 1449. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement prescribed by or under this title, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator.

No action may be brought under paragraph (1) against a public water system for a violation of a requirement prescribed by or under this title which occurred within the 27-month period beginning on the first day of the month in which this title is enacted. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce in an action brought under this subsection any requirement prescribed by or under this title or to order the Administrator to perform an act or duty described in paragraph (2), as the case may be.

Jurisdiction.

"(b) No civil action may be commenced—

"(1) under subsection (a)(1) of this section respecting violation of a requirement prescribed by or under this title—

"(A) prior to sixty days after the plaintiff has given notice of such violation (i) to the Administrator, (ii) to any alleged violator of such requirement and (iii) to the State in which the violation occurs, or

"(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice.

Notice required by this subsection shall be given in such manner as the Administrator shall prescribe by regulation. No person may commence a civil action under subsection (a) to require a State to prescribe a schedule under section 1415 or 1416 for a variance or exemption, unless such person shows to the satisfaction of the court that the State has in a substantial number of cases failed to prescribe such schedules.

ante, pp. 1669, 1672.

"(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure. Costs of litigation. Filing of bond. 18 USC app.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this title or to seek any other relief.

"GENERAL PROVISIONS

"SEC. 1450. (a)(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title. Regulations. 42 USC 300j-9.

"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

"(d)(1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine. Payments of grants.

"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual. "Nonprofit agency or institution."

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c). 40 USC 276a note. 5 USC app.

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act. 42 USC 264.

"(h) Not later than April 1 of each year, the Administrator shall submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report respecting the activities of the Agency under this Report to congressional committees.

title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to such committees of Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to such committees of Congress its comments respecting any such report.

OMB review, submittal to congressional committees.

Discrimination, prohibition.

"(i)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this title or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

"(B) testified or is about to testify in any such proceeding, or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

Filing of complaint.

"(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

Investigation.

"(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess

against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order. Filing of petition for review. 5 USC 701.

"(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously. Noncompliance, civil action.

"(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code. Mandamus proceeding.

"(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title."

(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands". 42 USC 201. Ante, p. 1661.

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area— 42 USC 300f note.

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

Report to President and Congress.

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

Appropriations.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977.

BOTTLED DRINKING WATER

21 USC 341, 348.

SEC. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

21 USC 349.

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".

Ante, p. 1662.

Publication in Federal Register.

Approved December 16, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-1185 accompanying H.R. 13002 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 93-231 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 119 (1973): June 22, considered and passed Senate.

Vol. 120 (1974): Nov. 19, considered and passed House, amended, in lieu of H.R. 13002.

Nov. 26, Senate agreed to House amendments with an amendment.

Dec. 3, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 10, No. 51 (1974): Dec. 17, Presidential statement.

NOTE

The Safe Drinking Water Act was signed into law by President Ford December 16, 1974 (Public Law 93–523).

The Senate Committee on Commerce reported the Safe Drinking Water Act, S. 433, on June 18, 1973. The Senate passed this bill by voice vote on June 22, 1973. After hearings held by the Subcommittee on Public Health and Environment and consideration of several legislative proposals, the House Committee on Interstate and Foreign Commerce on July 10, 1974, reported a clean bill, H.R. 13002. House debate occurred on November 19, 1974, and the bill passed by a vote of 296–84. Language of the House bill was then inserted in S. 433. The Senate considered and amended S. 433, as amended, on November 26. The House agreed to the Senate amendment December 3, 1974.

THE PRESIDENT'S STATEMENT ON SIGNING THE SAFE DRINKING WATER ACT, DECEMBER 17, 1974

I am pleased to have signed the Safe Drinking Water Act (S. 433). Much effort has gone into the development of this legislation as much as for any enacted in this session of Congress.

This Administration proposed a Safe Drinking Water Act, and several others were introduced by Members of Congress. All of these bills had the same objectives: to increase protection of the public's health. Many compromises had to be made before this bill reached my desk. Yet it is a strong bill, reflecting the combined efforts of the Congress and the Administration.

This legislation will enhance the safety of public drinking water supplies in this country through the establishment and enforcement of national drinking water standards. The Environmental Protection Agency has the primary responsibility for establishing our national standards. The States have the primary responsibility of enforcing them and for otherwise ensuring the quality of drinking water. In some situations where States fail to enforce the standards, the Federal Government could. I believe this will seldom be necessary. During the extensive consideration of this legislation, spokemen for the Administration opposed extensive Federal involvement in what has traditionally been State and local regulatory matters and unnecessary costs to the Federal Government. Even with the compromises that were made, I still have reservations about those two aspects of this bill, and I intend that it be administered so as to minimize both Federal involvement and costs.

The bill enhances the ability of the Federal Government to conduct research into the health effects of contaminants in drinking water. Recent news stories have highlighted several potential drinking water problems that can only be resolved through research. I am pleased to say that we are already moving ahead on these problems.

Nothing is more essential to the life of every single American than clean air, pure food, and safe drinking water. There have been strong national programs to improve the quality of our air and the purity of our food. This bill will provide us with the protection we need for drinking water.

NOTE: As enacted, S. 433, approved December 16, 1974, is Public Law 93–523 (88 Stat. 1660).

GERALD R. FORD.

Union Calendar No. 565

93D CONGRESS
2D SESSION

H. R. 13002

[Report No. 93–1185]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 1974

Mr. ROGERS (for himself, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, Mr. HUDNUT, Mr. GUNTER, and Mr. ROBISON of New York) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

JULY 10, 1974

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That this Act may be cited as the "Safe Drinking Water Act".~~

~~PUBLIC WATER SYSTEMS~~

~~SEC. 2. (a) The Public Health Service Act is amended by inserting after title XIII the following new title:~~

"TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

"PART A—DEFINITIONS

"SEC. 1401. For purposes of this title:

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

"(D) contains criteria and procedures to assure

~~a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.~~

~~"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect taste, odor, or appearance of such water, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.~~

~~"(3) The term 'maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.~~

~~"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen~~

~~service connections or regularly serves at least twenty-five individuals. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.~~

~~"(5) The term 'supplier of water' means any person who owns or operates a public water system.~~

~~"(6) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.~~

~~"(7) The term 'Administrator' means the Administrator of the Environmental Protection Agency.~~

~~"(8) The term 'Agency' means the Environmental Protection Agency.~~

~~"(9) The term 'Council' means the National Drinking Water Advisory Council established under section 1236.~~

~~"(10) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.~~

~~"(11) The term 'Federal agency' means any department, agency, or instrumentality of the United States.~~

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, or municipality.

"PART B—PUBLIC WATER SYSTEMS

"COVERAGE

"SEC. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; and

"(3) which does not sell water to any person.

"NATIONAL DRINKING WATER REGULATIONS

"SEC. 1412. (a) (1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

~~"(2) National interim primary drinking water regulations prescribed under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which are generally available (taking costs into consideration) on the date of enactment of this title.~~

~~"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than 2 one year after the date of their promulgation.~~

~~"(b) (1) Within 60 days after the date of the report of the results of the study conducted under subsection (c), the Administrator shall publish in the Federal Register (A) recommended maximum contaminant levels, (B) a list of contaminants for which recommended maximum contaminant levels cannot be established as provided in paragraph (2), and (C) proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of publication of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.~~

~~"(2) The Administrator shall by regulation establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report under subsection (c), may have any adverse effect on the health of persons. Each such recommended maximum contaminant~~

~~level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall in the regulations under this paragraph list any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. He may change such recommended levels and the contaminants to which they apply, and such list, from time to time, based on information available to him.~~

~~"(3) Revised national primary drinking water regulations promulgated under paragraph (1) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is published or which is listed under paragraph (2). The maximum contaminant level for a contaminant under such a regulation shall be as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been prescribed shall reduce such contaminant to a level which is as close to the recommended maximum~~

~~contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (2) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term 'feasible' means feasible with the use of technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).~~

~~"(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 5 years.~~

~~"(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect not later than 1 year after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.~~

~~"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate~~

~~such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.~~

~~"(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the Council.~~

~~"(e) (1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization, if appropriate arrangements cannot be made with such Academy) to conduct a study to determine the maximum contaminant levels which should be recommended under subsection (b) (2) in order to protect the health of persons from any known or anticipated adverse effects. In addition, such study shall include findings respecting the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons. The result of the study shall be reported to Congress no later than two years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur;

~~(C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (3); and (E) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.~~

~~"(2) In developing its proposals for recommended maximum contaminant levels under paragraph (1)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:~~

~~"(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.~~

~~"(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.~~

~~(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.~~

"(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

"(3) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

"(4) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

"(5) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (1) of this subsection.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

"(1) has adopted drinking water regulations which (A) during the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) after such effective date are no less stringent than the national primary drinking water regulations in effect under such section;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations including conducting such monitoring and making such inspections as the Administrator may require by regulation;

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and

"(4) if it permits variances and exemptions from the requirements of its primary drinking water regulations, permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416.

"(b) (1) The Administrator shall, by regulation (pro-

posed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which said determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify the rights of a State which is determined to have primary enforcement responsibility.

"(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) determine that he is unable to make such determination and notify the applicant in writing of the reasons for his inability to make such determination.

90-224 O - 82 - 27

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1414. (a) (1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413 (a)) that any public water system in such State does not comply with any national primary drinking water regulation in effect under section 1412, he shall so notify the State. If the Administrator finds such failure to comply extends beyond the thirteenth day after such notice, he shall give public notice of such finding, and he may (A) commence a civil action under subsection (b) (1), or (B) issue an order requiring any person subject to any provision of such regulation to comply with such provision.

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State does not comply with any national primary drinking water regulation, he may (A) commence a civil action under subsection (b) (1), or (B) issue an order requiring any person subject to any provision of such regulation to comply with such provision.

"(b) (1) The Administrator may bring a civil action

~~under this paragraph in the appropriate United States district court—~~

~~"(A) to require compliance with an order issued under subsection (a), or~~

~~"(B) when authorized by subsection (a), to require compliance with a national primary drinking water regulation.~~

~~The court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.~~

~~"(2) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a), shall be punished by a fine of not more than $5,000 per day.~~

~~"(c) Each owner or operator of a public water system shall give notice to the persons served by it—~~

~~"(1) of any failure on the part of the public water system to—~~

~~"(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or~~

~~"(B) perform monitoring required by section 1435(a), and~~

"(2) if the public water system is subject to a variance or exemption granted under section 1415 or 1416, of—

"(A) the existence of such variance or exemption, and

"(B) any failure to comply with the requirements of any schedule or control measure prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months and shall be furnished to the communications media serving the area served by each such water system (as determined by the Administrator). If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been prescribed, one or more public water systems in a State

do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State and request the State to take appropriate remedial action. If the Administrator determines that such State has not taken such remedial action and is not likely to do so within a reasonable time, he shall publish such determination in the Federal Register.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems (but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title).

"VARIANCES

"SEC. 1415. (a) Notwithstanding any other provision of this part:

"(1) (A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements

~~respecting the maximum contaminant levels of such drinking water regulation (or an amendment thereto) despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.~~

~~"(B) A State which has primary enforcement responsibility for public water systems may grant a variance from any provision of a drinking water regulation which requires the use of specified treatment technique with respect to a contaminant upon a showing by a public water system that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.~~

~~"(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the~~

granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance. has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—

"(I) identify each public water system with respect to which the finding was made,

"(II) specify the reasons for the finding, and

"(III) as appropriate, propose revocations of specific variances or propose revised control measures or other requirements for specific public water systems granted variances, or both.

"(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the

~~notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised variance control measures or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence. If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a control measure or other requirement for a variance and if before a revocation of such variance or a revision of such control measure or other requirement promulgated by the Administrato takes effect, the State takes corrective action with respe o such variance or control measure or other requirement which the Administrator determines makes his finding inapplicable to such variance or control measure or other requirement, the Administrator shall rescind the application of his finding to that variance or control measure or other requirement. No variance revocation or revised control measure or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revoca~~

~~tion or revised control measure or other requirement was proposed.~~

~~"(2) If a State does not have primary enforcement responsibility, for public water systems, the Administrator shall have the same authority (A) to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility, and (B) to exempt public water systems in such State from maximum contaminant level requirements and required treatment techniques under the same conditions and in the same manner as the State would be authorized to grant exemptions under section 1416 if it had primary enforcement responsibility.~~

~~(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.~~

~~"(b) Any control measure or other requirement on which a variance granted under this section is conditioned~~

may be enforced under section 1414 as if such control measure was part of a national primary drinking water regulation.

"(c) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"EXEMPTIONS

"SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that (1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement, and (2) the public water system was in operation on the effective date of such regulation.

"(b)(1) If a State grants a public water system an exemption under subsection (a), it shall prescribe within one year of the date the exemption is granted a schedule for (A)

~~compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and (B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required. Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.~~

~~"(2) (A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—~~

~~"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique~~

~~requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, 1981; and~~

~~"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the revised national primary drinking water regulations (or any amendments thereto), not later than seven years after the date such requirement takes effect.~~

~~"(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—~~

~~"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations, be not later than January 1, 1983; and~~

~~"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the revised national primary drinking water regulations (or~~

~~any amendment thereto), be not later than nine years after such requirement takes effect.~~

~~"(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.~~

~~"(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d) (2) or the schedule is revised by the Administrator under such subsection.~~

~~"(e) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption and document the need for the exemption.~~

~~"(d) (1) Not later than 18 months after the effective date of the interim national primary drinking water regula-~~

~~tions the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States from the date of the enactment of this title until one year after such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title.~~

~~"(2) (A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—~~

~~"(i) identify each exempt public water system with respect to which the finding was made,~~

~~"(ii) specify the reasons for the finding, and~~

~~"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.~~

~~"(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) pro-~~

~~promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence. If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.~~

~~"(e) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which~~

leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR STATE PROGRAMS

"SEC. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the Council.

"(b) Regulations for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

"(1) shall prohibit, effective three years after the enactment of this title, any underground injection in

such State which is not authorized by a permit issued by the State (except that the Administrator's regulations may permit a State to authorize underground injection by rule);

"(2) shall require, in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources;

"(3) may not by rule authorize any underground injection which endangers underground water sources;

"(4) shall include inspection, monitoring, record-keeping, and reporting requirements; and

"(5) shall apply, as prescribed by section 1438 (b), to underground injections by Federal agencies and shall apply to underground injections by any other person whether or not occurring on property owned or leased by the United States.

"(c) (1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b) (2)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

90-224 O - 82 - 28

~~"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;~~

~~"(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;~~

~~"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and~~

~~"(D) the Administrator determines the temporary permits require the use of minimally adequate safeguards established by rules adopted by him.~~

~~"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(2)), but after reasonable notice and public hearing one or more temporary permits each of which is applicable to a particular injection well and which may be effective until the expiration of four years after the date of enactment of this title, if the State has found, on the record of such hearing—~~

~~"(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);~~

~~"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and~~

~~"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.~~

~~"(d) For purposes of this part:~~

~~"(1) The term 'underground injection' means the subsurface emplacement of fluids by well injection.~~

~~"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.~~

~~"STATE PRIMARY ENFORCEMENT RESPONSIBILITY~~

~~"SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.~~

~~"(b) (1) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation (and of each amendment thereof) under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains *a showing that the State*~~

~~(A) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and~~

~~(B) will keep such records and make such reports with respect to its activities under clause (i) as the Administrator may require by regulation.~~

~~"(2) Within ninety days after the State's application under paragraph (1) and after reasonable opportunity for presentation of views, the Administrator shall by rule either~~

approve, disapprove, or approve in part and disapprove in part, the State's program.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clauses (i) and (ii) of paragraph (1) (A) of this subsection.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b) (3) or if a State fails to submit an application before the date of expiration of the period specified in subsection (b) (1), the Administrator shall by regulation within 90 days after such disapproval or expiration date (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of such regulations. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2)

~~which has been prescribed by the Administrator under subsection (c).~~

~~"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM~~

~~"SEC. 1423. (a) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such violation extends beyond the thirtieth day after such notice, he shall give public notice of such finding, and he may (A) commence a civil action under subsection (b)(1) or (B) issue an order requiring the person who is violating such requirement to comply with the requirement.~~

~~"(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may (A) commence a civil action under subsection (b)(1) or (B) issue an order requiring the~~

~~person violating such requirement of such program to comply with such requirement.~~

~~"(b) (1) The Administrator may bring a civil action under this paragraph in the appropriate United States district court (A) to require compliance with an order issued under subsection (a), or (b) when authorized by subsection (a) to require compliance with any requirement of an applicable underground injection control program.~~

~~"(2) Any person who—~~

~~"(A) violates any requirement of an applicable underground injection control program to which he is subject (i) during any period for which the State does not have primary enforcement responsibility for underground water sources, or (ii) more than thirty days after having been notified by the Administrator under subsection (a) (2) that such person is violating such requirement, or~~

~~"(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a),~~

~~shall be subject to a civil penalty of not more than $5,000 per day. In addition, if such violation or failure to comply is willful, such person shall be punished by a fine of not more than $5,000 per day.~~

~~"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any~~

law or regulation respecting underground injection (but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title).

"INTERIM REGULATION OF UNDERGROUND INJECTIONS

"SEC. 1424. (a) (1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

"(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the

designation for which the petition is submitted or deny the petition.

"(b) (1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

"(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall act upon such petition in accordance with section 558 of title 5 of the United States Code. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

"(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the

~~acquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the acquifer of the designated area in which the well is located so as to create a significant hazard to public health.~~

~~"(c) Any person who operates a new underground injection well in violation of subsection (b) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs. In addition, if such violation is willful, such person shall be punished by a fine of not more than $5,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.~~

~~"(d) For purposes of this section, the term 'new underground injection well' means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.~~

"PART D—GENERAL PROVISIONS

"EMERGENCY POWERS

"SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such action may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) (1) shall be punished by a fine of not more than $5,000 per day of violation.

"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

"SEC. 1432. (a) If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the

~~purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a 'certification of need') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.~~

~~"(b) (1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.~~

~~"(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the~~

President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding in a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

"(3) Within 30 days after—

"(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

"(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

"(c) (1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively

~~treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.~~

~~"(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are~~

~~to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance.~~

~~"(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.~~

~~"(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c) (1), that such delay or failure was caused solely by compliance with such order.~~

~~"(e) (1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c) (1) shall be fined not more than $5,000 for each such failure to comply.~~

~~"(2) Whoever fails to comply with any order issued pursuant to subsection (c) (1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.~~

~~"(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)~~

~~(1), he may petition a United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce the provisions of such order.~~

~~"(f) No certification of need or order issued under this section may remain in effect—~~

~~"(1) for more than one year, or~~

~~"(2) after June 30, 1976,~~

~~whichever occurs first.~~

~~"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION TRAINING OF PERSONNEL~~

~~"SEC. 1433. (a) (1) The Administrator may conduct research, studies, and demonstrations, and render financial, technical, and other assistance to any person in the establishment and administration of a program of surveillance, monitoring, evaluation, and enforcement of a public water supply program, and in the conduct of research and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of dependably safe supply of drinking water, including—~~

~~"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local~~

health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from the water;

"(D) improved methods for providing a dependably safe supply of drinking water including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water supplies; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

"(3) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water system, and

90-224 O - 82 - 29

"(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

"(4) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(5) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(6) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(7) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

"(b) In carrying out this title, the Administrator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State drinking water safety programs as defined in section 1434(d)(1)).

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1974; $25,000,000 for the fiscal year ending June 30, 1975; and $35,000,000 for the fiscal year ending June 30, 1976.

"GRANTS FOR STATE PROGRAMS

"SEC. 1434. (a)(1) There are authorized to be appropriated for grants to States under this subsection to carry out State public water system supervision programs $5,000,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976.

"(2) From the sum appropriated under paragraph (1) for a fiscal year, the Administrator shall allot $50,000 to each State for such year, plus such additional amounts as he determines, on the basis of population, geographical area, number of public water systems, and other relevant factors, are necessary for the State to carry out its program.

"(3) Any State which has established, or which intends to establish, a public water system supervision program may apply to the Administrator for assistance under

this subsection. If the Administrator determines that such State has established or will establish such a program and that such State will be able to assume primary enforcement responsibility for public water systems within one year after first receiving assistance under this subsection and that such State will comply with regulations under subsection (c), he shall approve the application of such State.

"(4) If the Administrator approves an application of a State under paragraph (3), then for each fiscal year in which such State complies with regulations under subsection (c), the Administrator shall pay out of such State's allotment not more than 75 per centum of the costs (as determined under regulations of the Administrator) of carrying out the public water system supervision program of such State; except that no assistance under this subsection may be granted to any State for any period beginning more than one year after such State first receives assistance under this subsection, unless during such period such State has primary enforcement responsibility for public water systems.

"(b) (1) There are authorized to be appropriated for grants to States under this subsection to carry out State underground water source protection programs $5,000,000 for the fiscal year ending June 30, 1975, and $7,500,000 for the fiscal year ending June 30, 1976.

"(2) From the sum appropriated under paragraph (1) for a fiscal year, the Administrator shall allot to each State for such year, such amounts as he determines, on the basis of population, geographical area, and other relevant factors, are necessary for the State to carry out its program.

"(3) Any State which has established, or which intends to establish, an underground water source protection program may apply to the Administrator for assistance under this subsection. If the Administrator determines that such State has established or will establish such a program, that such State will be able to assume primary enforcement responsibility for underground water sources within two years after first receiving assistance under this subsection, and that such State will comply with regulations under subsection (e), he shall approve the application of such State.

"(4) If the Administrator approves an application of a State under paragraph (3), then for each fiscal year in which such State complies with regulations under subsection (e), the Administrator shall pay out of such State's allotment not more than 75 per centum of the costs to the State (as determined under regulations of the Administrator) of carrying out the underground water source protection program of such State; except that no assistance under this subsection may be granted to any State for any period beginning more than two years after such State first receives

assistance under this subsection, unless during such period such State has primary enforcement responsibility for underground water sources.

"(e) The Administrator shall prescribe regulations to carry out this section.

"(d) For purposes of this section:

"(1) The term 'State drinking water safety program' means a program of public water system supervision or of underground water source protection (or both).

"(2) The term 'public water system supervision' means a State's adoption and enforcement of drinking water regulations which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

"(3) The term 'underground water source protection' means a State's adoption and enforcement of a program which meets the requirements of regulations under section 1422(b)(1)(A)(i) and for keeping records and making reports required by section 1422(b)(1)(A)(ii).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

"SEC. 1435. (a) The Administrator may make grants to any person for the purposes of—

~~"(1) assisting in the development and demonstration of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and~~

~~"(2) assisting in the development and demonstration of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.~~

~~"(b) Grants made by the Administrator under this section shall be subject to the following limitations:~~

~~"(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.~~

~~"(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities in any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).~~

~~"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.~~

~~"(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.~~

~~"(e) For the purposes of making grants under subsections (a) and (b) of this section there are hereby authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1974; $7,500,000 for the fiscal year ending June 30, 1975 and $10,000,000 for the fiscal year ending June 30, 1976.~~

~~"(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1)~~

such system cannot obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with assistance under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $10,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $10,000,000. The Administrator shall prescribe regulations to carry out this subsection.

"RECORDS AND INSPECTIONS

"SEC. 1436. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422 (c)), or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulations to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b) The Administrator, or representatives of the Administrator duly designated by him, upon presenting appro-

priate credentials and a written notice to any supplier of water or other person subject to a primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or person in charge of any of its property), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than $5,000.

"(d) (1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person,

~~if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).~~

~~"(2) Any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term 'information required under this section' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.~~

~~"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term 'person' includes a Federal agency.~~

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1437. (a) (1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of such Council or otherwise engaged in business of such Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

"SEC. 1438. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water

system shall comply with all national primary drinking water regulations in effect under section 1412.

"(b) (1) Each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(2) The Administrator shall waive compliance with paragraph (1) of this subsection upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the House and Senate Armed Services Committees.

"GENERAL PROVISIONS

"SEC. 1439. (a) (1) The Administrator is authorized

~~to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.~~

~~"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.~~

~~"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.~~

~~"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.~~

~~"(d) (1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.~~

~~"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.~~

"(c) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a-276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

"(h) Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection

~~shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to Congress its comments respecting any such report."~~

~~(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".~~

~~RURAL WATER SURVEY~~

~~SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area--~~

~~(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;~~

~~(2) presently having limited or otherwise inadequate access to drinking water;~~

~~(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and~~

~~(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.~~

~~(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.~~

~~(c) There is authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1974; $2,000,000 for the fiscal year ending June 30, 1975; and $1,000,000 for the fiscal year ending June 30, 1976.~~

~~BOTTLED DRINKING WATER~~

~~SEC. 4. (a) Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:~~

~~"BOTTLED DRINKING WATER STANDARDS~~

~~"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water standards either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".~~

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after title XIII the following new title:

"TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

"PART A—DEFINITIONS

"DEFINITIONS

"SEC. 1401. For purposes of this title:

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of

water which may be taken into the system and (ii) siting for new facilities for public water systems.

"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

"(3) The term 'maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribution facilities under con-

trol of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"(5) The term 'supplier of water' means any person who owns or operates a public water system.

"(6) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(7) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) The term 'Agency' means the Environmental Protection Agency.

"(9) The term 'Council' means the National Drinking Water Advisory Council established under section 1446.

"(10) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

"(11) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, or municipality.

"PART B—PUBLIC WATER SYSTEMS

"COVERAGE

"SEC. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; and

"(3) which does not sell water to any person.

"NATIONAL DRINKING WATER REGULATIONS

"SEC. 1412. (a)(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

"(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques,

and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than one year after the date of their promulgation.

"(b)(1)(A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

"(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

"(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such

report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

"(2) On the date the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

"(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed

in a rule under paragraph (1)(B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (2) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (2) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term 'feasible' means feasible with the use of technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

"(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 5 years.

"(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments

thereto) shall take effect not later than 1 year after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

"(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

"(e)(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) in order to protect the health of persons from any

known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

"(3) In developing its proposals for recommended maxi-

mum contaminant levels under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

"(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

"(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

"(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

"(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

"(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

"(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the

Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

"(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (2) of this subsection.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

"(1) has adopted drinking water regulations which (A) during the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such

inspections as the Administrator may require by regulation;

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and

"(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meets the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than in conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416.

"(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are no longer met with respect to a State may become effective, the

Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

"(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) determine that he is unable to make such determination and notify the applicant in writing of the reasons for his inability to make such determination.

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1414. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

90-224 O - 82 - 31

"(A) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time the State abused its discretion in carrying out primary enforcement responsibility for public water systems,

the Administrator may commence a civil action under subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

"(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b).

"(b) The Administrator may bring a civil action in the appropriate United States district court to require compli-

ance with a national primary drinking water regulation or with any schedule, control measure, or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

"(1) authorized under paragraph (1) or (2) of subsection (a), or

"(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

"(c) Each owner or operator of a public water system shall give notice to the persons served by it—

"(1) of any failure on the part of the public water system to—

"(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

"(B) perform monitoring required by section 1445(a), and

"(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(A) the existence of such variance or exemption, and

"(B) any failure to comply with the requirements of any schedule or control measure prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), and shall be furnished to the other communications media serving such area. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regula-

tions thereunder shall be fined not more than $5,000.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

"(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or

other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

"(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

"(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

"VARIANCES

"SEC. 1415. (a) Notwithstanding any other provision of this part, variances from ~~national~~ primary drinking water regulations may be granted as follows:

"(1) (A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of char-

acteristics of the raw water resources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance granted under this subparagraph shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.

"(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a rational primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

"(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance.

"(D)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or monitoring or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—

"(I) identify each public water system with respect to which the finding was made,

"(II) specify the reasons for the finding, and

"(III) as appropriate, propose revocations of specific variances or propose revised control meas-

ures or monitoring or other requirements for specific public water systems granted variances, or both.

"(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised variance control measures or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a control measure or other requirement for a variance and if before a revocation of such variance or a revision of such control measure or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect

to such variance or control measure or other requirement which the Administrator determines makes his finding inapplicable to such variance or control measure or other requirement, the Administrator shall rescind the application of his finding to that variance or control measure or other requirement. No variance revocation or revised control measure or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised control measure or other requirement was proposed.

"(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

"(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

"(b) Any control measure or other requirement on which a variance granted under this section is conditioned may be enforced under section 1414 as if such control measure was part of a national primary drinking water regulation.

"(c) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"EXEMPTIONS

"SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

"(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement, and

"(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement.

"(b)(1) If a State grants a public water system an exemption under subsection (a), it shall prescribe, within one year of the date the exemption is granted, a schedule for—

"(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

"(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

"(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as

expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, 1981; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

"(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

"(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

"(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of

the granting of such exemption. Such notification shall contain the reasons for the exemption and document the need for the exemption.

"(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title.

"(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—

"(i) identify each exempt public water system with respect to which the finding was made,

"(ii) specify the reasons for the finding, and

"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

"(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given

pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

"(e) For purposes of this section, the term 'treatment

90-224 O - 82 - 32

technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR STATE PROGRAMS

'SEC. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be pro-

posed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

"(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

"(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

"(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the

case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers underground water sources;

"(C) shall include inspection, monitoring, record-keeping, and reporting requirements; and

"(D) shall apply (i) as prescribed by section 1447 (b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

"(2) Regulations for State underground injection control programs may not prescribe requirements which interfere with or impede—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

"(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (with-

out regard to subsection (b)(1)(B)(i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

"(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

"(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)), but after reasonable notice and public hearing, one or more temporary permits each of which is applicable to a particular injection well and

to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State has found, on the record of such hearing—

"(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

"(d) For purposes of this part:

"(1) The term 'underground injection' means the subsurface emplacement of fluids by well injection.

"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant

may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

"(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

"(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

"(ii) will keep such records and make such reports with respect to its activities under clause (i) as the Administrator may require by regulation.

"(B) Within 270 days of any amendment of a regula-

tion under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement..

"(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

"(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2) or if a State fails to submit an application or notice before the date

of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after such disapproval or expiration date (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2)

which has been prescribed by the Administrator under subsection (c).

"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

"SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"(B)(i) the State fails to submit the report re-

quested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

"(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

"(b)(1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who

violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

"(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources, shall be subject to a civil penalty of not more than $5,000 per day. In addition, if such violation or failure to comply is willful, such person shall be punished by a fine of not more than $5,000 per day.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"INTERIM REGULATION OF UNDERGROUND INJECTIONS

"SEC. 1424. (a)(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the

date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one acquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

"(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

"(b)(1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

"(2) Any person may petition the Administrator for the

issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

"(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer

of the designated area in which the well is located so as to create a significant hazard to public health.

"(c) Any person who operates a new underground injection well in violation of subsection (b) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs. In addition, if such violation is willful, such person shall be punished by a fine of not more than $5,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

"(d) For purposes of this section, the term 'new underground injection well' means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

"PART D—EMERGENCY POWERS

"EMERGENCY POWERS

"SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and

substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such action may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) shall be punished by a fine of not more than $5,000 per day of violation.

"PART E—GENERAL PROVISIONS

"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

"SEC. 1441.(a) If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of

such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a 'certification of need') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

"(B) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

"(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of

90-224 O - 82 - 33

this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health

"(3) Within 30 days after—

"(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

"(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

"(c)(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his dele-

gate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

"(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manfacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of

chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

"(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

"(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

"(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

"(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

"(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order

issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

"(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

"(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

"(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce the provision of such order.

"(f) No certification of need or order issued under this section may remain in effect—

"(1) for more than one year, or

"(2) after June 30, 1977,

whichever occurs first.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

"SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and

mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

"(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and munici-

palities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

"(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

"(4) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

"(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

"(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

"(b) In carrying out this title, the Administator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other

organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d)))).

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR STATE PROGRAMS

"SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

"(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed primary enforcement responsibility for public water systems within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the

date the grant is made, a public water system supervision program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. To the extent the applicable appropriation permits, the allotment of a State for any fiscal year shall not be less than $50,000.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

"(b)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within two years from the date of such grant an underground water source protection, and

"(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed primary enforcement responsibility for underground water sources within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

"(c) For purposes of this section:

"(1) The term 'public water system supervision

program' means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

"(2) The term 'underground water source protection program' means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

"SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

"(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations:

"(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

"(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new

or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

"(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this

subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $10,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $10,000,000. The Administrator shall prescribe regulations to carry out this subsection.

"RECORDS AND INSPECTIONS

"SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b) The Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of

water or other person subject to a primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or person in charge of any of the property of such supplier or other person), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than $5,000.

"(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person,

90-224 O - 82 - 34

if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

"(2) Any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term 'information required under this section' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term 'person' includes a Federal agency.

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1446. (a)(1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel-time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412.

"(b)(1) Each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(2) The Administrator shall waive compliance with paragraph (1) of this subsection upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the

Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

"GENERAL PROVISIONS

"SEC. 1448. (a)(1) *The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.*

"(2) *The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.*

"(b) *The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.*

"(c) *Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.*

"(d)(1) *The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.*

"(2) *Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'non-*

profit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

"(h) Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers neces-

sary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to Congress its comments respecting any such report."

(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey

shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977.

BOTTLED DRINKING WATER

SEC. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".

93D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 93-1185

SAFE DRINKING WATER ACT

JULY 10, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 13002]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 13002) to amend the Public Health Service Act to assure that the public is provided with safe drinking water, having considered the same, report favorably thereon with one amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts a new text which appears in italic type in the reported bill.

PURPOSE OF LEGISLATION

The purpose of the legislation is to assure that water supply systems serving the public meet minimum national standards for protection of public health. At present, the Environmental Protection Agency is authorized to prescribe Federal drinking water standards only for water supplies used by interstate carriers. Furthermore, these standards may only be enforced with respect to contaminants capable of causing communicable disease. In contrast, this bill would (1) authorize the Environmental Protection Agency to establish Federal standards for protection from all harmful contaminants, which standards would be applicable to all public water systems, and (2) establish a joint Federal-State system for assuring compliance with these standards and for protecting underground sources of drinking water.

BRIEF SUMMARY

In summary, this legislation would—

(1) (a) require the Administrator of the Environmental Protection Agency to prescribe national primary drinking water regulations for contaminants which may adversely affect the public health;

(b) provide that such regulations are to apply to public water systems and are to protect health to the maximum extent feasible;

(c) provide that interim primary regulations are to be prescribed initially and that, after a study by the National Academy of Sciences, health goals (recommended maximum contaminant levels) are to be established and revised primary regulations are to be promulgated;

(d) provide that primary regulations are to include a maximum contaminant level, if it is feasible to monitor the level of that contaminant, or treatment technique requirements, if such monitoring is not feasible for that contaminant;

(e) require primary regulations to include criteria and procedures to assure compliance with the preceding requirements;

(f) authorize States which adopt and implement adequate standards and enforcement measures to grant certain variances from the national regulations, to grant exemptions to extend the time for compliance by any public water system, and to establish compliance schedules, including interim control measures and increments of progress;

(g) authorize the Administrator to grant variances and exemptions in any State which fails to adopt and implement adequate standards and enforcement measures;

(h) authorize the Administrator to enforce national primary drinking water regulations when a State fails to assure timely compliance with at least equally stringent requirements;

(2) authorize the Administrator to prescribe secondary drinking water regulations designed to provide guidance to the States, but which are not to be Federally enforceable;

(3) establish Federal-State programs to protect underground sources of drinking water;

(4) authorize the Administrator on a temporary basis to certify the need for chlorine (or other water treatment substances) to be allocated to public water systems and require the President (or his delegate) to issue necessary allocation orders;

(5) provide for Federal grants to assist State surveillance and enforcement programs under the bill; and

(6) provide for certain additional grants, loan guarantees, research and demonstrations to assist in carrying out the above purposes.

In general the bill provides for informal rulemaking procedures in accordance with 5 U.S.C. 553, except in the case of actions required by the bill to be taken on the record after notice and opportunity for a hearing.

LEGISLATIVE BACKGROUND

a. The 92d Congress

During the 92d Congress, the Subcommittee on Public Health and Environment held two sets of hearings on bills relating to protection of the public health through assurance of safe community drinking water supplies. On May 24, 25, and 26, 1971, the Subcommittee held hearings on H.R. 1093, H.R. 5454, and H.R. 437. On May 10, 1972, a clean bill, H.R. 14899 was introduced. Supplemental hearings upon that bill were conducted June 7 and 8, 1972. None of the aforementioned bills were ordered reported by the full committee during the 92d Congress.

b. The 93d Congress

On January 3, 1973, Representatives Rogers, Kyros, Preyer, Symington, Roy, Nelsen, Hastings, and Robison introduced H.R. 1059—the "Safe Drinking Water Act."

The Administration's bill, H.R. 5368, was introduced by Representatives Staggers and Devine, by request, on March 7, 1973. An identical bill, H.R. 5395, was introduced on March 8, 1973, by Representative Carter.

Hearings on these bills were held before the Subcommittee on Public Health and Environment on March 8 and 9, 1973.

Subsequently, the Subcommittee ordered reported as clean bills, H.R. 9726 and H.R. 10955. Each of these represented modified versions of H.R. 1059. Finally, on February 21, 1974, a new clean bill, H.R. 13002, was introduced by Representatives Rogers, Kyros, Preyer, Symington, Roy, Nelsen, Carter, Hastings, Heinz, Hudnut, Gunter, and Robison and was ordered reported by the Subcommittee to the Committee on Interstate and Foreign Commerce.

On June 20, 1974, the Committee by voice vote (one member dissenting) ordered reported H.R. 13002, as amended.

Comparable legislation (S. 433) was passed by voice vote of the Senate on June 22, 1973.

Need for Legislation

The Committee has concluded that present legislative authority is inadequate to assure that the water supplied to the public is safe to drink.

Section 361 of the Public Health Service Act authorizes the Secretary of the Department of Health, Education, and Welfare to "make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases." Pursuant to this provision, the Secretary promulgated regulations establishing standards for drinking water supplied to and by interstate carriers. See 42 C.F.R. § 72, Subpart H. Under Reorganization Plan No. 3 of 1970, the authority to establish and revise drinking water standards for interstate carriers was transferred to the Administrator of the Environmental Protection Agency.

The Department of Health, Education, and Welfare had interpreted this authority as permitting enforcement of standards only with respect to contaminants which may cause or carry a communicable disease. Standards for contaminants which could cause chemical poisoning or other non-communicable disease were held by the Office of General Counsel not to be enforceable. This opinion has not been reversed by EPA's Office of General Counsel.

Moreover, there is no provision in Federal law to protect members of the public who are not traveling on interstate conveyances from being supplied with drinking water which may cause communicable or noncommunicable illness, although it is arguable that existing authority under section 361 of the Public Health Service Act could be utilized in a more expansive way to deal with part of the problem of unsafe drinking water.

Some progress has been made in protecting underground sources of drinking water. Recent amendments to the Federal Water Pollution Control Act (section 402(b)(1)(D) of the Act, as amended by P.L. 92-500) have required States seeking to operate their own discharge permit programs to "control the disposal of pollutants into wells." Moreover, EPA is required to review State applications to operate such permit systems and may disapprove such applications if the requirements of that Act are not met.

However, while it appears that EPA may prescribe its own program to control the disposal of pollutants into wells if it disapproves a State's permit authority application, this conclusion has not yet been reached in any judicial decision. Moreover, the Federal Water Pollution Control Act's restrictive definition of pollutant may prevent any Federal control system from adequately protecting underground drinking water sources. Finally, it appears that the Federal Water Pollution Control Act may not authorize any regulation of deep well injection of wastes which is not carried out in conjunction with a discharge into navigable waters. See U.S.E.P.A., *Opinion of Acting Deputy General Counsel*, #590, December 13, 1973. For these reasons and for the reasons which follow, the Committee has determined that broadened and strengthened legislation to assure safe drinking water is necessary.

Until relatively recently the fundamental elements of life—clean air to breathe, safe water to drink—have been taken for granted in the United States. However, recent investigations demonstrate that public confidence in the safety of drinking water supplies may, in many instances, be misplaced.

During the ten-year period 1961–1970, there were 130 outbreaks of disease or poisoning attributed to drinking water. These outbreaks resulted in 46,374 illnesses and 20 deaths. On the average, this represents one reported waterborne outbreak per month with something over 350 persons becoming ill.*

Furthermore, in August 1970, the Department of Health, Education, and Welfare completed a representative sampling of the Nation's public water supply systems. In all, 969 systems were studied. The major findings of the study were as follows:

Quality of water being delivered

Thirty-six percent of 2,600 individual tap water samples contained one or more bacteriological or chemical constituents exceeding the limits in the Public Health Service Drinking Water Standards (established under section 361 of the Public Health Service Act).

Nine percent of these samples contained bacterial contamination at the consumer's tap evidencing potentially dangerous quality.

Thirty percent of these samples exceeded at least one of the chemical limits indicating waters of inferior quality.

*It should be noted, however, that these figures represent only those incidents: (1) that have been reported; (2) that involve at least two cases of communicable disease; and (3) for which an epidemiological investigation was performed and the waterborne route established as the cause. Figures from the Center for Disease Control for the 1961–1970 period indicated only 72 outbreaks and 23,574 cases; this is only one-half the number that was ultimately found after the Environmental Protection Agency made a review of medical and engineering literature, searched newspaper clippings, and contracted State sanitary engineers and epidemiologists.

Eleven percent of the samples drawn from 94 systems using surface waters as a source of supply exceeded the recommended organic chemical limit of 200 parts per billion.

Status of physical facilities

Fifty-six percent of the systems evidenced physical deficiencies including poorly protected groundwater sources, inadequate disinfection capacity, inadequate clarification capacity, and/or inadequate system pressure.

In the eight metropolitan areas studied, the arrangements for providing water service were archaic and inefficient. While a majority of the population was served by one or a few large systems, each metropolitan area also contained small inefficient systems.

Operators' qualifications

Seventy-seven percent of the plant operators were inadequately trained in fundamental water microbiology; and 46 percent were deficient in chemistry relating to their plant operation.

Status of community programs

The vast majority of systems were unprotected by programs to prevent drinking water supply pipes from being cross-connected with sewage or storm drainage pipes, programs for plumbing inspection on new construction, or programs for continuing surveillance of public water system operations.

Status of State inspection and technical assistance programs

Seventy-nine percent of the systems were not inspected by State or county authorities in 1968, the last full calendar year prior to the study. In 50 percent of the cases, plant officials did not remember when, if ever, a State or local health department had last surveyed the supply.

An insufficient number of bacteriological samples were analyzed for 85 percent of the water systems—and 69 percent of the systems did not even analyze half of the numbers required by the PHS Drinking Water Standards.

Small systems

Similar problems have been discovered with respect to small systems which serve the public, such as recreational areas, trailer parks, restaurants and gas stations, but which are not part of a community water supply system. A recent EPA study of drinking water systems at recreational sites operated in conjunction with Corps of Engineers reservoirs revealed that 19% of the systems did not meet the bacteriological limits of the Drinking Water Standards. A similar study of drinking water systems at Bureau of Reclamation Reservoirs shows that 12% did not meet the bacteriological standards. Only 7% of the systems practiced a bacteriological surveillance program meeting the Drinking Water Standards. A third study of semi-public water systems along interstate highways, including highway rest stops, showed that fifteen percent of these systems failed to meet the bacteriological limit of the Drinking Water Standards.

On November 15, 1973, the General Accounting Office reported that potentially hazardous water is being delivered to some consumers, particularly by small water water supply systems serving populations of

5,000 or less. Of 446 systems studied, GAO found that only 60 were in compliance with both Federal bacteriological and sampling requirements. See Report to the Congress by the Comptroller General of the United States, *Improved Federal and State Programs Needed To Insure the Purity and Safety of Drinking Water in the United States* (Nov. 15, 1973).

Reasons for findings

There appear to be multiple reasons for these findings. First, the public has not been made adequately aware of the potential danger to health to which it is exposed from drinking contaminated or inadequately treated water. This in turn has resulted in a lack of demand for public and private action to correct and prevent the public health threat in drinking water.

Second, in many cities and small towns reasonably available treatment technology, techniques, and other safeguards are not being applied to assure safe water. Third, for some constituents of water adequate treatment technology has not been developed or is too costly for general use. Fourth, certain economic, industrial, agricultural, and environmental practices have resulted in increasing concentrations of potentially harmful chemicals entering the Nation's drinking water sources. Environmental requirements limiting atmospheric and surface disposal of waste have made underground disposal practices more attractive from an economic standpoint. Fifth, new compounds, such as the various herbicides, pesticides, and mercury, have been introduced into the environment before full knowledge of their ultimate health effects are known.

In addition to these factors, government at all levels—Federal, State, regional, local—have not developed, applied, and enforced adequate standards and procedures for protection of the public's health.

The USPHS Drinking Water Standards, while recognized as the most authoritative set of standards for drinking water in use in this country today, do little more than mention viruses, do not contain limits for numerous inorganic chemicals which are known to be toxic to man, and identify only one index to cover the entire family of organic chemical compounds. These standards need continuous updating and broadening to include limits for all known or potentially dangerous constituents found in sources of raw water supply and in treated drinking water.

There is no Federal statutory authority and many of the States lack authority to require compliance with existing standards by public water systems. While the Federal Government can, and does, prohibit interstate carriers from using water from unsafe community water supply systems, it cannot protect the citizens living in these communities from using potentially dangerous water. Nor can the Federal Government even require that citizens be notified of such unsafe condition. Between July 1, 1970 and December 19, 1973, 54 interstate carrier water supply systems were classified "use prohibited" for various periods of time on the ground that they presented an unreasonable threat to the health of the traveling public.

The States, which have the primary responsibility to supervise water supplies, have authority and regulations that range from good to very poor. A review of State drinking water standards, performed in 1971,

indicated that only 14 had officially adopted the USPHS Drinking Water Standards. Enforcement of these regulations is frequently poor.

Sufficient surveillance of community water systems by public agencies at all levels of government has likewise been lacking. The EPA Community Water Supply Study revealed that an insufficient number of bacteriological samples were taken in more than one of the previous 12 months at 85% of the systems studied. In the area of chemical analysis, only 10% of the systems studied had the benefit of complete chemical analysis in 1968. Most of the remaining 90% had little or no idea what the chemical quality of their drinking water was. In this same year, only one out of five of these supplies benefited from an engineering survey visit. In the case of over half of the supplies a sanitary survey had never been performed or the system operator did not know if one had ever been done.

A 1970 survey by the Conference of State Sanitary Engineers indicated that most state sanitary engineers judged their own surveillance program to be deficient.

The value of survillance is illustrated by comparing the supplies studies in the Community Water Supply Study with interstate carrier water supplies. The Interstate Quarantine Regulations require annual evaluation and cer ification of supplies serving interstate carriers. As a result, these supplies receive improved surveillance as compared to other community supplies. Bacteriological quality of the Community Water Supply Study systems failed to meet the standards twice as often as those of the interstate carrier program.

Still another aspect of the problem of unsafe drinking water is the difficulty which many public water systems have experienced in recent months in obtaining adequate supplies of chlorine and other substances necessary for effective treatment of contaminants. According to the Environmental Protection Agency, in the past year 57 water and wastewater utilities had reported shortages of chlorine (down to 1–10 days' supply on hand) and 33 wastewater and four public water supply treatment systems were reported to have ceased chlorinating for periods up to two weeks. It appears that only a portion of the shortages have been reported to EPA. Among the cities experiencing such shortages have been Denver, Jersey City, Newark, Chicago, and New York, and many smaller public water supply systems. Increased demand from private industry, delay in the construction of new chlorine production facilities, and downtime in existing facilities have contributed to this problem. Moreover, existing authorities probably do not permit Federal authorities to allocate chlorine and other necessary substances in order to assure protection of the public's health.

Other problems which increase the potential health risk from drinking water are lack of adequate training and certification procedures for water supply system operators, lack of adequate, inexpensive monitoring or measurement methods, the proliferation of small water systems which cannot support well-trained full-time operators and necessary equipment, inadequate health effects research, and the increasing demand for drinking water at a time of increasing pressure to dispose of contaminants in ways that may endanger the quality of drinking water.

80-224 O - 82 - 35

Need for Congressional action

The lack of comprehensive cost, health effects, technological assessment, and monitoring data cannot justify any further delay in Congressional and administrative action. While it would be desirable to have complete health effects research, effective treatment technology, and accurate, inexpensive monitoring systems in operation prior to commencing a system of regulation, this is simply not possible. It is the Committee's intent that EPA, the States, and the public water systems begin now to maximize protection of the public health insofar as possible and to continue and expand these efforts as new more accurate data, technology, and monitoring equipment become available.

While the Committee views the problem of unsafe drinking water as a matter which is and should be primarily the concern of State and local governments, the Committee has determined that the Federal government also has a responsibility to ensure the safety of the water its citizens drink. In the Committee's view, this responsibility arises from two main factors. First, the causes and effects of unhealthy drinking water are not confined within the borders of State or local jurisdictions. Second, the solution to the problem of unsafe drinking water, in the Committee's view, must be found in a cooperative effort in which the Federal government assists, reinforces, and sets standards for the State and local efforts.

That the causes and effects of unhealthy drinking water are national in scope is evident from a variety of facts. Federal air and water pollution control legislation have increased the pressure to dispose of waste materials on or below land, frequently in ways, such as subsurface injection, which endanger drinking water quality. Moreover, the national economy may be expected to be harmed by unhealthy drinking water and the illnesses which may result therefrom. This is the case for several reasons. First, outbreaks of waterborne disease are likely to inhibit interstate travel and tourism in or through the areas in which the water is unsafe. Second, the economic productivity of those engaged in interstate commerce or activities affecting commerce is likely to be diminished to the extent that unsafe drinking water causes illness and absence from the place of employment. Third, agricultural employees who migrate across State lines may properly be reluctant to work in areas with only contaminated water supplies. Those who have contracted communicable disease may be barred from entering other States. Fourth, diseases caused by contaminated drinking water may be communicable beyond State lines. Fifth, contaminants which endanger the public health when present in drinking water are frequently generated by business engaged in or enterprises affecting interstate commerce. Sixth, the unavailability of a reliably safe drinking water supply may well be a primary limiting factor in the economic growth of a town or region and ultimately in the growth of the Nation's economy.

Other factors also illustrate the need for national concern about unsafe drinking water. Underground drinking sources which carry contaminants may cross State boundaries. In general, water in the hydrologic cycle does not respect State borders. The Nation also has an important fiscal interest in minimizing drinking water related disease, since such disease may well contribute significantly to the drain on the Federal health care financing system—Medicare, Medi-

caid, etc.—unless the quality of the Nation's drinking water supplies is protected.

These concerns are not merely speculative potentialities in the Committee's view. The hearing records on safe drinking water legislation are replete with examples of these problems having actually occurred.

Moreover, it is abundantly clear that additional Federal assistance, research, and support is necessary in order to enable State and local efforts to provide safe water to be successful. Under these circumstances, the Committee finds that the Federal government must bear a shared responsibility with State and local governments to ensure protection of the public's health and the safety of drinking water supplies.

It is true that some existing Federal programs do relate to drinking water supply systems. Federal agencies with a significant involvement in drinking water supply are the Farmers Home Administration, the Department of Housing and Urban Development, and the Economic Development Agency. The Indian Health Service in the Department of Health, Education, and Welfare operates a direct construction program to provide sanitation facilities to Indian and Alaskan natives. However, in the Committee's view these grant programs to construct drinking water supply systems are not necessarily adequate to assure that safe drinking water will be available, even from those systems which are constructed with such aid.

Cost Estimate

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), your Committee estimates that the following costs will be incurred in carrying out the functions assigned to the Environmental Protection Agency by H.R. 13002 as amended by the Committee.

5-YEAR COST PROJECTIONS—H.R. 13002 SAFE DRINKING WATER ACT

[Dollars in millions]

	1974	1975	1976	1977	1978
Standards (1212, 1221, 4)	$1.7	$2.4	$2.5	$2.5	$3.5
Monitoring and enforcement (1213, 1214, 1215, 1223, 1224, 1237)	3.6	9.4	12.0	15.0	15.0
Emergency powers (1231)	.6	1.2	1.2	1.2	1.2
Research, demonstration, technical assistance, (1232, 1234, 3)	15.3	36.7	48.0	48.0	46.0
Program grants (1233)	.6	11.7	14.6	24.6	34.6
Total	21.8	61.4	78.3	91.3	100.3

Section-by-Section Analysis of the Reported Bill

Section 1. Short title

The first section of H.R. 13002, as reported by the committee, provides that this legislation may be cited as the "Safe Drinking Water Act".

Section 2. Public water systems

This section amends the Public Health Service Act by inserting a new title XIV.

PART A—DEFINITIONS

SECTION 1401 DEFINITIONS

"Primary drinking water regulations"

Section 1401 of the new title defines "primary drinking water regulation" as a national regulation which is intended to protect health to the maximum extent feasible. This definition, which applies to both interim and revised primary regulations under section 1412, establishes the crucial framework for regulation under the Act.

The definition provides that primary regulations apply to "public water systems", which is also a defined term. Primary regulations must specify contaminants which in the judgment of the Administrator may have an adverse effect on the health of persons when found in drinking water. The words used by the Committee were carefully chosen. Because of the essentially preventive purpose of the legislation, the vast number of contaminants which may need to be regulated, and the limited amount of knowledge presently available on the health effects of various contaminants in drinking water, the Committee did not intend to require conclusive proof that any contaminant *will* cause adverse health effects as a condition for regulation of a suspect contaminant. Rather, all that is required is that the Administrator make a reasoned and plausible judgment that a contaminant *may* have such an effect. Moreover, the contaminant need not have the adverse effect directly in order for the Administrator to regulate it as a primary contaminant. If it is a precursor to a contaminant which may have such effect or if it may contribute to such effect, the contaminant should be controlled under primary regulations.

Such a judgment may be based upon epidemiological, toxicological, physiological, biochemical, or statistical research or studies or extrapolations therefrom. (Thus, for example, such a judgment may be based on evidence of either animal or human toxicity or disease.) Such a judgment may alternatively be based on knowledge concerning behaviors of groups of contaminants or behaviors of analogous contaminants or behaviors of the same contaminants in other media.

It must be noted that more than 12,000 chemical compounds are now being used commercially, not counting additional variants and fractions. About 500 new chemical compounds are added each year. Many of these will find their way into the nation's drinking water supplies. It is, of course, impossible for EPA to regulate each of these contaminants which may be harmful to health on a contaminant-by-contaminant basis. Therefore, the Committee anticipates that the Administrator will establish primary drinking water regulations for some groups of contaminants, such as organics and asbestos. The establishment of such group-wide regulations should help to assure that the public health will be protected from currently undiscovered, unidentified or underresearched subgroups or specific contaminants within the group.

However, the Committee believes that effective and adequate protection of the public health can only be assured by a comprehensive approach to standard setting. In the Committee's view, such an approach must combine such group-wide regulations with regulations for certain sub-groups and specific contaminants within the group of

substances being regulated. These regulations are needed both for those sub-groups and contaminants which are most prevalent in drinking water supplies and also for those which are very hazardous at low concentrations (carcinogens, for example).

Thus, for example, the Committee anticipates that revised national primary drinking water regulations would include regulation of organics as a group and subgroups, such as haloethers, polycyclic aromatic hydrocarbons, and nitrosamines.

In prescribing which groups, subgroups, and specific contaminants will be subject to revised regulations, the Administrator is expected to include those substances contained in World Health Organization, *Maximum Permissible Concentrations of Harmful Substances in the Water of Watercourses Used for Hygienic and Domestic Purposes* (1970); World Health Organization, *European Standards for Drinking Water*, 2d Ed., Rev., Geneva (1970); National Institute of Occupational Safety and Health annual list of toxic substances; and toxic substances listed under section 307 of the Federal Water Pollution Control Act. If the Administrator determines not to include any of these substances in the revised primary regulations, the Committee anticipates that he would publish such determination along with the reasons for finding such regulation to be unnecessary. However, the Committee does not intend the Administrator to publish a separate determination and statement of reasons for each identified substance which is not included in the revised regulations. Rather, the Committee expects the fullest possible explanation on a group or class basis of why the identified substances have been omitted.

The Committee, of course, anticipates that all contaminants currently subject to interstate carrier drinking water regulations or to recommended standards would be controlled under both interim and revised regulations, unless the Administrator finds that no health threat may be posed by any such contaminant. In addition, all other contaminants which the Administrator judges may have an adverse effect on the health of persons should be regulated as soon as possible.

Maximum contaminant level or treatment techniques

Once the Administrator specifies contaminants, including groups and subgroups thereof, subject to national primary drinking water regulations, he must prescribe for each contaminant a maximum contaminant level. The only circumstance in which a maximum contaminant level is not to be prescribed for any contaminant is if he finds that it is not technologically or economically feasible for most public water systems to monitor for that contaminant. If the Administrator so finds, he must prescribe regulations which (1) list all known treatment techniques for that contaminant which meet the requirement of section 1412 concerning maximum feasible protection of the public health, and (2) require the use of at least one of those listed.

For the purposes of making the finding regarding the feasibility of monitoring for any given contaminant, the Administrator must first determine, with respect to a given contaminant, what effective monitoring techniques, if any, are technologically available. Next the Administrator must determine at what frequencies such techniques should be employed to assure detection of any violation prior to the time such violation will actually cause or contribute to any signifi-

cantly increased health hazard. Then the Administrator must determine whether such monitoring at such frequency is economically feasible.

One example of a group of contaminants for which monitoring might be judged to be infeasible would be viruses, which are currently prohibitively expensive to isolate and measure on a routine basis. Therefore, the Committee expects that the Administrator would prescribe all known treatment techniques for controlling viruses rather than establishing a maximum contaminant level for viruses. A second example might be as follows: where several specific contaminants occur within a general group, the cumulative expense of monitoring for each individual contaminant might similarly lead to a judgment that such contaminants are ones for which treatment technique regulations should be prescribed. Treatment techniques which the Administrator is authorized to prescribe should include appropriate provision for storage and distribution techniques.

If in the Administrator's judgment, however, it is economically and technologically feasible to monitor for any contaminant (or group or subgroup), he is directed to prescribe a maximum contaminant level for that contaminant. Of course, in this case, the Administrator would be expected to require public water systems to use at least one of the monitoring techniques which he has judged to be feasible.

The choice as to which of the permissible treatment techniques should be used by any public water system would be left essentially to that system (and to State and local policy). Moreover, under section 1415 if a system (or any other person including a vendor) could demonstrate that any other treatment technique not listed by the Administrator was at least as effective as those listed by him, then that technique could be used under a variance which the Administrator would be authorized to issue. If, on the other hand, the Administrator finds monitoring for any contaminant is not feasible (economically or technologically), he must prescribe the full range of available treatment techniques which he determines meet the requirements of section 1412.

Assumed intake water quality

In prescribing national primary drinking water regulations the Administrator must make some assumptions about the quality of the intake waters which will be processed by the treatment techniques which he has found to be generally available. The Committee recognizes that intake water quality is likely to vary throughout the Nation. If the Administrator were to assume that intake waters would in general be extremely contaminated, then many areas which are relatively clean could meet the maximum contaminant levels which the Administrator would prescribe without the use of the most effective treatment methods. This result would be inconsistent with the Committee's overriding intent to maximize protection of the public health. The Committee does not intend that primary regulations be set at levels which would permit systems with relatively clean intake water sources to provide water which is more contaminated than the recommended maximum contaminant level (i.e., the health goal which is to be established by the Administrator after consideration of the report of the National Academy of Sciences pursuant to section 1412(b)(1) of the

bill), unless those systems have been required to utilize the most effective generally available treatment methods.

Therefore, it is the intent of the Committee that the Administrator, in prescribing national primary drinking water regulations, assume that intake waters will be sufficiently uncontaminated so that with application of the most effective treatment method(s) a public water system would be able to protect the public health (including attainment of the recommended maximum contaminant levels).

This policy may in some instances result in those public water systems with extremely contaminated intake water sources being unable to comply with national primary drinking water regulations. In light of this policy, the Committee has authorized variances for public water systems which cannot comply with the regulations due to poor source water quality. The Committee anticipates that full implementation of the Federal Water Pollution Control Act, selection of alternative intake water sources, and other legal or technological measures will enable most systems to achieve the requisite intake water quality within a period of three to six years at the latest.

Other requirements

In addition, under section 1401 "primary drinking water regulations" must contain enforceable requirements for quality control, testing (including monitoring,* if feasible) proper operation and maintenance, siting for new facilities, and intake water quality minimum requirements for public water systems. It is the belief of the Committee that these safeguards may be essential to assure that public water systems dependably supply safe drinking water. Such regulations are not intended to stifle diversity, innovation, or responsiveness to local conditions. Nor are such regulations intended to permit Federal dictation of the ideal water system. They are intended, however, to assure that all systems will meet the essential minimal criteria necessary to safeguard the public's health.

Intake water quality requirements

Thus, for example, in the Committee's view, regulation of the quality of raw water sources is not an end in itself; nor is it necessary for all all contaminants. The Committee intends that intake water quality standards should be prescribed by EPA only for those contaminants for which the Administrator determines that existing treatment techniques may be inadequate to assure achievement of recommended maximum contaminant levels (i.e., health goals). If available techniques are adequate to achieve these levels regardless of the quality of the intake water to which the techniques are applied, then no intake water quality regulation should be prescribed.

In making this judgment, the Administrator should not undertake a water system-by-water system analysis. Rather, he should examine (on a contaminant-by-contaminant basis) the most contaminated raw water source which is likely to be used by a public water system. If use of the most efficient treatment techniques will permit the achievement of the health goal with respect to a given contaminant even from the most contaminated raw water source, then no intake water requirement

* Since drinking water regulations are intended to be met at the consumer's tap, the committee anticipates that monitoring would include tap sampling.

or limitation should be established by EPA with respect to such contaminant.

By providing for a carefully circumscribed exercise of authority by EPA, the Committee seeks to achieve the primary purpose of protection of the public health while leaving to State and local governments and the public water systems maximum flexibility in determining whether to achieve this purpose by reliance on clean source water, treatment technology, or other effective means.

Operating requirements

Likewise operating requirements which are authorized to be prescribed by EPA under this section should be as limited as possible while still permitting assurance that safe drinking water will be provided. Except with respect to those contaminants for which a treatment technique requirement is established rather than a maximum contaminant level, State, local, and public water system discretion should be constrained only to meet minimum criteria, such as those preventing the system from being left unattended by competent personnel or requiring regular cleaning of equipment and facilities. The technical details of how to operate an efficient public water system should not be dictated by regulations under this authority, except to the extent reasonably necessary to assure that treatment technique requirements promulgated as part of the national primary drinking water regulations are effectively implemented.

Siting requirements

The Committee likewise intends that EPA's regulation of siting for new facilities for public water systems be structured so as to effectuate the purpose of this legislation. This means that regulations should establish siting criteria only to the extent necessary to provide adequate assurance that public water systems will be able to provide a continuous supply of healthful drinking water. Such criteria should include considerations relating to protection from floods, earthquakes, fires, and other manmade and natural disasters which could cause breakdown of the public water system or a portion thereof.

The Committee does not intend to convey to EPA the authority to impose a siting permit system or to designate water system facility sites. Responsibility for such action rests with the public water systems and with State and local governments. EPA is expected merely to establish general siting criteria which must be considered in siting decisions and to establish the most limited or narrow system of procedural review necessary to assure compliance. Where a State has established adequate siting criteria and review procedures, the Committee intends EPA's review to be limited only to assuring that the State's criteria and review process are being implemented in good faith.

Moreover, the Committee anticipates that siting regulations established by EPA will be reasonable. If, for example, all areas in which a new facility might be located are subject to some risk of earthquake damage, the regulations should not flatly prohibit the location of the facility. Rather, they should encourage location in the portion of the area where such risk is minimized and should take into account construction techniques which may be available to minimize earthquake damage.

Furthermore, the EPA siting regulations should be designed to assure adequate consideration of disaster risks and of other considerations necessary to assuring healthful drinking water reliably. However, these considerations are not intended to be the exclusive factors dictating siting decisions. A variety of social, technological, environmental, legal, and economic considerations may legitimately enter into siting decisions by public water systems and State and local governments. EPA's siting regulations should be designed so as to maximize the likelihood that water meeting national primary drinking water regulations and recommended maximum contaminant levels will be delivered reliably to consumers. If legitimate considerations other than those contained in EPA's regulations dictate siting decisions which increase the risk of disaster damage (or other problems which could undermine assurance of a healthful and reliable drinking water supply system) and if the State and local government and public water systems have fairly taken account of such risk in their siting decisions, EPA's siting regulations should respect the State and local decisions.

Under no circumstances, however, may any siting decision exempt a public water system from the duty to comply with maximum contaminant level, treatment technique, or intake water quality regulations.

Quality control and testing requirements

In establishing quality control and testing procedures for the source, treatment, and distribution systems of public water systems, EPA should establish a minimum sampling frequency for each contaminant for which a maximum contaminant level has been set. More frequent monitoring should be required by regulation for classes of systems facing local conditions which justify such increased monitoring. In prescribing regulations requiring more frequent monitoring or sampling than the mimimum, the Administrator is expected to take into account, among other factors, the nature and type of the water source, historical data characterizing the water quality, anticipated variations in water quality, vulnerability of the source to accidental or deliberate contamination, the population at risk, the type of treatment provided, and the level of the contaminant which is generally found as it relates to the established limit.

Monitoring should insure to the extent feasible the detection of a violation before such violation causes or contributes to any adverse health effect. The Committee expects that the Administrator would require that, upon initial detection of a suspected violation, monitoring frequency would be increased.

Limitation on standard setting authority

The Administrator under this section would be prohibited from requiring the addition of any substance other than for the purpose of treating contaminants. Thus, EPA could not require the addition of fluorides or other substances to a public water system for medicinal purposes. Nor could EPA prevent the addition of fluorides or other substances up to the maximum amount allowable under a maximum contaminant level. While EPA could not require the addition of a substance for medicinal purposes, the Agency would have full authority to limit the addition of such a substance if necessary to prevent excessive levels from occurring or to prevent such substance from interfering with the effectiveness of any required treatment techniques.

"Secondary drinking water regulations"

Section 1401 also defines "secondary drinking water regulation". This is a regulation which establishes maximum allowable contaminant levels to protect the public welfare. Such regulations are intended to establish contaminant levels to prevent odor or appearance of drinking water which may cause a substantial number of persons served by the public water system providing such water to discontinue its use. These levels are intended as guidelines to the States. On the other hand, if a substance may cause or contribute to an interaction with pipes which may endanger public health, the Committee would anticipate that that substance would be regulated as a primary drinking water contaminant. Both primary and secondary drinking water regulations may be established for the same contaminant, if the statutory criteria are met.

"Public water system"

Section 1401 defines certain other terms, including "public water system". A "public water system" is a system which has 15 or more service connections or regularly serves 25 or more persons, regardless of whether the system is publicly or privately owned or operated. This definition, thus, encompasses nearly all public accommodations, such as restaurants, motels, and trailer parks which serve the public.

"Contaminant"

Section 1401 defines "contaminant" to mean "any physical, chemical, biological, or radiological substance or matter in water." This, of course, would include any radioactive materials whether or not they originated from any source under the jurisdiction of the Atomic Energy Commission.

"Municipality"

Section 1401 (10) defines "municipality" to mean "a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law." In the Committee's view, this definition would include counties, boroughs, and parishes, since these entities are created by or pursuant to State constitutional or statutory law.

Part B—Public Water Systems

SECTION 1411. COVERAGE

Section 1411 provides that except insofar as variances may be granted under section 1415 or exemptions granted under section 1416, national primary drinking water regulations apply to each public water system in each State. The section also exempts any entity which would otherwise qualify as a "public water system" within the meaning of the bill, if it only distributes and stores water but does not collect, treat, or sell it and if it relies entirely on a public water system to provide the water which the entity ultimately makes available to the public.

Each of these three conditions specified in section 1411 must be met in order for a public water system to be exempt from the duty to comply with national primary drinking water regulations. Thus, for example, a municipal system which imposes water and sewage taxes or charges would not be exempt, because it sells water within the meaning of the section. Any distributor of water for human consumption, whether public or private, would be subject to the primary regulations unless he can show that he receives his water supplies from a system which is subject to the regulations and he does not charge consumers for the water that he provides. The purpose of this provision is to exempt from Federal regulation those facilities such as hotels, which merely by virtue of having a storage tank and acting as a conduit from public water system to consumer would otherwise be subject to Federal regulation as a public water system.

By this provision the Committee intends that primary regulations would apply to housing developments, motels, restaurants, trailer parks, and other businesses serving the public if the business in question maintains its own well or water supply. The Committee intends to exempt businesses which merely store and distribute water provided by others, unless that business sells water as a separate item or bills separately for water it provides.

SECTION 1412. NATIONAL DRINKING WATER REGULATIONS

Interim regulations

Section 1412 requires the Administrator of EPA to establish both interim and revised primary drinking water regulations. The Committee intends that the interim regulations be established quickly and, therefore, anticipates that these regulations would be based largely on a review and updating of the USPHS drinking water standards. Such a review has already been completed. EPA Advisory Committee on the Revision and Application of the Drinking Water Standards, as recommended to the Administrator, *Drinking Water Standards*, September 20, 1973. The Committee anticipates that the Advisory Committee recommendations would serve largely as the basis for the interim primary regulations.

On the other hand, the Committee intends that revised regulations contain a comprehensive program of control of drinking water contamination. Thus, the Committee has permitted a substantially longer period for development of the revised primary regulations.

National interim primary drinking water regulations are to be promulgated within 180 days after date of enactment of the bill. Promulgation is to be preceded by proposal and opportunity to comment in accordance with 5 U.S.C. § 553, and consultation with the Secretary of HEW and the National Drinking Water Advisory Council. National interim primary regulations take effect not later than one year after promulgation. These interim regulations must protect health to the maximum extent feasible using treatment methods which are generally available on the date of enactment. In determining what methods are generally available, the Administrator is directed to take costs into account.

Reasonable cost

It is evident that what is a reasonable cost for a large metropolitan (or regional) public water system may not be reasonable for a small system which serves reatively few users. The Committee believes, however, that the quality of the Nation's drinking water can only be upgraded if the systems which provide water to the public are organized so as to be most cost-effective. In general, this means larger systems are to be encouraged and smaller systems discouraged. For this reason, the Committee intends that the Administrator's determination of what methods are generally available (taking cost into account) is to be based on what may reasonably be afforded by large metropolitan or regional public water systems.

This, of course, means that some small water systems which cannot afford the methods determined by the Administrator to be "generally available" will be unable promptly to comply with all primary regulations. For this reason, authority to grant exemption from the effective date of the primary regulations and thus to delay the date for compliance by public water systems has been provided in section 1416. However, this period should be used to develop a regional water system which can afford to purchase and use such methods, to seek additional sources of funding such as State aid, or to develop a plan for otherwise serving the affected population after any existing inadequate system is closed.

It is not the Committee's intent to cause any area to be deprived of existing drinking water supply services. Thus, the Committee anticipates that during the next three years the States and localities and the Environmental Protection Agency will review this matter and will determine whether any additional legislative authorities are needed.

NAS study

The Committee was concerned that adequate data on the health effects of contaminants in drinking water is not now available. Section 1412(e), therefore, mandates the Administrator to make arrangements with the National Academy of Sciences to conduct a study of the maximum contaminant levels which should be allowed in drinking water. These levels should assure that the health of persons will be protected against known or anticipated adverse effects, allowing an adequate margin of safety.

In addition, the NAS is directed to develop a list of contaminants, the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons. The NAS list is to be considered by the Administrator in deciding whether to include such contaminants on his own list and thus whether to prescribe treatment technique requirements for such contaminant in a national primary drinking water regulation.

The results of the NAS study, including proposals for recommended maximum contaminant levels (i.e. health goals) are to be reported to Congress no later than two years after date of enactment.

In conducting its study and making its report, the NAS is directed to consider only what is required for protection of the public health, not what is technologically or economically feasible or reasonable. In the Committee's view, the question of what is necessary for adequate protection of the public health is and ought to be considered sep-

arately from the question of what degree of contaminant control is technologically or economically feasible.

The Committee wishes to ensure that the NAS report is based solely on considerations of public health and is not influenced by political, budgetary or other considerations. For these reasons, the prior release of any draft or the final report to any Federal agency (other than EPA) is prohibited.

The NAS is further directed to develop its proposals for recommended maximum contaminant levels so as to protect susceptible groups in the population; so as to take account of long-term exposures, exposures to contaminants in other media, and synergistic effects of multiple contaminants; so as to prevent body changes which are reasonably suspect of increasing the risk or severity of illness; and so as to incorporate an adequate margin of safety.

In recommending an adequate margin of safety, the National Academy of Sciences is directed to consider, among other factors, the margins of safety which are currently used in regulating foods and drugs, pesticides, radiation, air and water pollution, occupational exposures to contaminants, and other relevant regulatory systems. However, as in the rest of the study, economic or technological feasibility is not to be weighed in deciding how much margin of safety is necessary to give reasonable assurance that health of persons will be protected. Economic and technological feasibility are to be considered by EPA (and under section 1416 by the States) and then only for the purpose of determining how soon it is possible to reach recommended maximum contaminant levels and how much protection of the public health is feasible until then.

The NAS study should also examine and identify future research needs in the area of health effects of drinking water contamination. In this portion of its study, the NAS should consider not only what research is necessary on the effects of contaminants which have already been included in the USPHS drinking water standards; NAS should also consider the research needs for those other contaminants which the Academy concludes have the greatest potential for adverse effect on human health. Finally, the study should establish priorities for research needs and estimate the costs necessary to implement the recommended research program. In deciding which contaminants to include in the list for revised primary regulations, it is anticipated that the Administrator will carefully consider the recommendations of the Academy.

Recommended maximum contaminant levels

One hundred days after the NAS report is submitted to Congress, the Administrator must publish regulations, promulgated in accordance with 5 U.S.C. 553, establishing recommended maximum contaminant levels and listing the contaminants the level of which he finds cannot be determined in drinking water but which he determines may have an adverse effect on public health. The recommended maximum contaminant levels are goals which are to be set at levels sufficient to prevent the occurrence of any known or anticipated adverse health effects with an adequate margin of safety. They are to be based on the NAS report, but may differ from the NAS' proposals if the Adminis-

trator finds that adequate justification for such differences exists and if such finding is published and explained by the Administrator.

The incorporation of an adequate margin of safety is not to be confused with the anticipation of adverse health effects. Recommended maximum contaminant levels are to be established by a three-step process. First, the known adverse health effects of contaminants are to be compiled. Second, the Administrator must decide whether any adverse effects can be reasonably anticipated, even though not proved to exist. It is at this point that the Administrator must consider the possible impact of synergistic effects, long-term and multi-media exposures, and the existence of more susceptible groups in the population. Finally, the recommended maximum level must be set to prevent the occurrence of any known or anticipated adverse effect. It must include an adequate margin of safety, unless there is no safe threshold for a contaminant. In such a case, the recommended maximum contaminant level should be set at the zero level.

Revised regulations

The revised national drinking water regulations must be proposed at the time of promulgation of the recommended maximum levels. The revised regulations must be promulgated within 180 days after the proposal is published. Promulgation must be preceded by opportunity to comment in accordance with 5 U.S.C. § 553 and by consultation with the Secretary of HEW and the National Drinking Water Advisory Council. The revised primary regulations must specify the contaminant level (or treatment methods, if monitoring is infeasible) which provides maximum feasible protection for human health, using generally available methods of treatment or control.

These revised regulations take effect not later than one year after promulgation, except as provided in sections 1415 and 1416. In setting the revised regulations, the Administrator shall consider all technology that can be mass produced and put into operation in time for implementation of such regulations.

The promulgation of revised regulations for any contaminant will not automatically revoke interim regulations applicable to that contaminant. Only if the Administrator's revised regulations expressly provide that the interim regulations are superceded would such interim regulations cease to be effective. In deciding whether or not to supercede interim regulations, the Administrator should consider the length of time which they have been in effect, the amount of money spent to comply with such regulations, the compatibility of compliance strategies and techniques for meeting interim and revised regulations, and other appropriate factors, in addition to the public health implications of leaving the interim regulations in effect. If interim regulations remain in effect when revised regulations are promulgated, each public water system would be required to comply with both interim and revised regulations in accordance with the timetables and under the conditions set forth in the bill.

Secondary regulations

Finally, section 1412 requires the Administrator to propose national secondary drinking water regulations within 270 days after enactment and to promulgate such regulations within 90 days thereafter.

SECTION 1413. STATE PRIMARY ENFORCEMENT RESPONSIBILITY

It is the Committee's intent that States and public water systems take the primary responsibility for assuring the safety of the Nation's drinking water supplies. While Federal standard setting and back-up enforcement is authorized, the Committee is hopeful that State and Federal cooperation will be the rule and that the States will take the lead in adopting standards, reviewing compliance strategies, and where necessary bringing enforcement actions.

Section 1413 defines the substantive conditions under which the Administrator may determine that a State has primary enforcement responsibility for assuring compliance by public water systems within that State with national primary drinking water regulations. These conditions include (1) the adoption of State regulations which the State can demonstrate are at least equally as stringent as national primary regulations; (2) the adoption and implementation of adequate surveillance and enforcement procedures; and (3) if the State permits variances and exemptions, the adoption and implementation of measures to assure that such variances and exemptions are permitted under conditions and in a manner which is at least equally stringent as the requirement of sections 1415 and 1416.

Section 1413 also provides that the procedures by which the Administrator will make the determinations as to whether a State has primary enforcement responsibility for public water systems are to be prescribed by rule of the Administrator in accordance with 5 U.S.C. § 553. Proposal of such regulations is required within 180 days after enactment of this bill and promulgation is required within 90 days thereafter.

This section also requires the Administrator to take final action within 90 days after date of submission of an application for a determination of State primary enforcement responsibility. If the Administrator's decision is negative, he must notify the State in writing of the reasons for such decision.

The significance of this determination cannot be overestimated. Authority for States to grant variances and exemptions under sections 1415 and 1416, to receive notice prior to the commencement of Federal enforcement actions under section 1414, and to receive grants under section 1434 (except as may be provided during the first year) is dependent upon this determination. Therefore, the Committee intends EPA to exercise utmost care in passing upon such applications and to deny any such application only upon a clear failure by the State to meet the requirements of this section.

Section 1413 also specifies certain conditions which must be met before an EPA determination to revoke a State's primary enforcement responsibility may be effective. First, the Administrator must submit to the State in writing a statement of the specific requirements which he finds the State is no longer meeting and the basis for this finding. Second, the Administrator must provide an opportunity for public hearing. The Administrator's final determination to revoke or leave in effect the State's primary enforcement responsibility is not required to be made on the record of this hearing, however.

For the purpose of this section, the phrase "adequate procedures for the enforcement of such State regulations" includes sufficiently expeditious administrative and judicial authorities and procedures to assure that, if properly exercised, these procedures and authorities will obviate the necessity for Federal enforcement under section 1414. This means that a State must be able to take effective action within 60 days after receipt of a notice of noncompliance from EPA to bring a system into compliance at the earliest feasible time.

SECTION 1414. FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

Conditions for Federal enforcement

This section sets forth the conditions under which Federal enforcement of primary drinking water regulations may occur. If the Administrator finds a violation is occurring in a State which has primary enforcement responsibility, he must give notice of the alleged violation to the State.

If the Administrator finds that the noncompliance extends beyond the thirtieth day, he is required to notify the public of this finding. He is also required to request the State to report within 15 days as to the steps it is taking to bring the system into compliance.

The Committee intends that such reply be as specific as possible. It should specify a timetable by which compliance will be achieved and include interim steps that will be taken. It should also include a statement of the legal authority which the State intends to rely upon and any remaining legal steps that will be taken by the State to assure that the timetable is followed. Mere declarations of intent to commence legal proceedings or other similar vague declarations of intent would not be sufficient to constitute the required reply under this section. It is further expected that the State would amend its reply if, after the initial submission of such reply to EPA, such State had reason to believe the compliance timetable, including interim steps would not be met. The Committee expects that the Administrator will promulgate requirements for regular followup reports from the State on progress being made toward bringing about compliance pursuant to the Administrator's authority under section 1413 to issue regulations concerning State programs.

If a system remains in noncompliance sixty days after the initial notice by EPA and if the State has failed to submit the report requested within the 15 day period or the Administrator determines that by failing to implement adequate procedures by the sixtieth day to bring the system into compliance by the earliest feasible date the State has abused its discretion in carrying out its primary enforcement responsibility, then the Administrator may commence an enforcement action under subsection (b).

In using the phrase "abused its discretion in carrying out its primary enforcement responsibility", the Committee intends that any failure by a State to implement by the sixtieth day adequate procedures to bring a system into compliance by the earliest feasible time be considered a *per se* abuse of discretion by the State. Such a failure is both a necessary and sufficient condition for enforcement action by

the Administrator. Such a failure would constitute an abuse of discretion whether it results from negligence, inattention, lack of adequate technical and enforcement personnel, or from any other cause. Thus, in the Committee's view no defense to an enforcement action by EPA would lie on the ground that, though the State had failed to implement such adequate procedures by the sixtieth day, the State did not abuse its discretion.

In reviewing the date determined by the State to be the earliest feasible time for any system to come into compliance, the Administrator should consider, among other matters, all technological alternatives and financial resources which may be available to the public water system or to the entity which operates it. If a State has not initiated procedures which would bring the system into compliance at the earliest feasible time, this would constitute an abuse of discretion within the meaning of section 1414, such that Federal enforcement efforts would be authorized. In addition, a State would be deemed to have abused its discretion if at any time prior to compliance being achieved, such State fails to carry out properly any follow-up or enforcement procedures necessary to achieve compliance within the time contemplated by those procedures.

The Administrator is also authorized to commence enforcement action upon request of the Governor (or other chief executive officer) of a State or upon request of the agency of the State responsible for assuring compliance with drinking water regulations.

Continuous violations of primary drinking water regulations would of course, be basis for Federal enforcement actions under the conditions stated above. The Committee also intends that sporadic but repeated violations of the regulations be subject to Federal enforcement under the conditions described above. It should be noted in this regard that a violation occurs whenever a maximum contaminant level is exceeded or a treatment technique is not followed however briefly. While the Committee does not intend to require enforcement actions to be commenced with respect to each isolated violation, it is intended that the public receive notice of each violation which is found to occur.

In the event the Administrator finds that a violation is occurring in a State which does not have primary enforcement responsibility, he is not required to give the State notice prior to commencing a suit to compel compliance with the national primary regulations.

Judicial enforcement

Section 1414 also provides that courts entertaining suits under this section may enter such judgment as the public health may require, taking into account the time necessary to comply and the availability of alternative water supplies. Therefore, the Committee intends that courts which are considering remedies in enforcement actions under this section are not to apply traditional balancing principles used by equity courts. Rather, they are directed to give utmost weight to the Committee's paramount objective of providing maximum feasible protection of the public health at the times specified in the bill.

Although requiring prompt compliance by some small outdated systems may in effect force the closing thereof, such a court order would be both permissible and warranted if an expansion of existing

90-224 O - 82 - 36

regional water service or other State or local assistance could be provided to assure the availability of adequate and safe drinking water supplies to those presently serviced.

Notice to users

Section 1414(c) requires public water systems to give notice to the users of the system and to the public under five separate circumstances: (1) when the system fails to comply with a maximum contaminant level requirement of a national primary drinking water regulation; (2) when the system fails to use any of the required treatment techniques of a national primary drinking water regulation; (3) when the system fails to perform testing or monitoring as required by such a regulation or by section 1445; (4) when a system has received a variance under section 1415(a)(1)(A) or 1415(a)(2) (for an inability to meet a maximum contaminent level requirement) or has received an exemption under section 1416; or (5) when a system has failed to comply with any schedule or control measure prescribed pursuant to a variance or exemption.

The purpose of this notice requirement is to educate the public as to the extent to which public water systems serving them are performing inadequately in light of the objectives and requirements of this bill. Such public education is deemed essential by the Committee in order to develop public awareness of the problems facing public water systems, to encourage a willingness to support greater expenditure at all levels of government to assist in solving these problems, and to advise the public of potential or actual health hazards.

In keeping with this purpose, the Committee has specified certain methods and frequencies for giving notice to the public and has conferred authority for the Administrator to prescribe the form and manner of this notice. The regulations of the Administrator must, of course, be reasonable and related to the purpose expressed above. Notice should inform the public, not unduly alarm it. Thus, the Committee expects that the Administrator's regulations would permit public water systems to give fair explanation of the significance or seriousness for the public health of any violation, failure, exemption or variance. These regulations should also permit fair explanation of steps taken by the system to correct any problem.

On the other hand, the Administrator's regulations should assure that unduly technical language, small print, or other methods which would hinder public awareness are not used. Moreover, it may be necessary to require bi-lingual notice in certain communities to assure adequate notice is given to all segments of the public. The Administrator's regulations should also require that the three-month notice include all violations not previously reported, even though they have been corrected at the time of notification.

The Committee recognizes that in some instances apparent violations may result from monitoring error. Only if the public water system could provide persuasive proof that readings in excess of regulations were due to such error would the system be excused from the notice requirement under section 1414. In such a case, the Committee anticipates that the system will notify appropriate public authorities of such monitoring or sampling errors.

The Administrator's regulations would be expected to differentiate between the type of notice which might be ordered in case of imminent and substantial endangerment under section 1431 and that which is required in less serious cases under this section.

Section 1414(c) also contains provision making punishable by a fine of up to $5,000 a willful failure to give the required notice.

Secondary drinking water regulations

National secondary drinking water regulations are not federally enforceable. If the Administrator finds that these regulations are not being complied with and that the State is failing to take reasonable action to assure compliance, he must notify the State.

Retention of State and local authority

Section 1414 retains in the States and political subdivisions the right to adopt and enforce any drinking water regulations or laws it chooses. However, no person may be relieved of the duty to comply with requirements under this bill by any State or local regulations or laws (except insofar as variances, exemptions, or temporary permits may be issued by States pursuant to authorities expressly conferred by this bill).

Public hearings to encourage compliance

Finally, section 1414(f) authorizes the Administrator, upon receipt of a petition by a State with primary enforcement responsibility or by a public water system or by any person served by a system which the Administrator finds is not in compliance with any national primary drinking water regulation or with any other requirement under section 1415 or 1416, to conduct public hearings with respect to such noncompliance. The purpose of these hearings is to gather information on the ways in which the system can be brought into compliance at the earliest feasible time. The purpose is also to explore means for the maximum feasible protection of the public health during any period of noncompliance. These hearings shall be the basis for recommendations by the Administrator. These recommendations are to be submitted to the State, the public water system, and to the communications media and are to be made available to the public.

Nothing in subsection (f) is intended by the Committee to limit the Administrator's authority to act *sua sponte* to hold hearings or to make recommendations to effectuate the purposes of this bill. Nor is the authority in subsection (f) intended in any way to be construed as a condition precedent to Federal enforcement.

SECTION 1415. VARIANCES

State variance authority

Section 1415 authorizes variances from primary drinking water regulations to be granted on two separate bases.

First, a State which has primary enforcement responsibility for public water systems may grant one or more variances to any system which cannot meet maximum contaminant level requirements despite application of the most effective treatment methods. This variance is intended to deal with the situation in which the system cannot comply

with primary regulation intake requirements (and thus cannot comply with maximum contaminant level output limits) despite all reasonable technological, economic, and legal efforts to do so. The Committee anticipates that in exercising this authority States will periodically review variances to assure that they are still necessary and that all reasonable efforts to obtain access to a satisfactory raw water source are being made by the system.

Second, States with primary enforcement responsibility may grant a variance from a primary drinking water regulation which requires the use of treatment technique(s) if a satisfactory showing is made by a public water system that such treatment is unnecessary to protect the public health. This variance is designed to apply to situations in which the system's raw water source is substantially cleaner than the minimum intake water requirements.

The Committee anticipates that any such variance would, under the Administrator's regulations, be conditioned upon monitoring and periodic review to assure that its continuation is warranted. Furthermore, section 1415 requires notice and opportunity for a public hearing before any such variance may take effect. Separate notice and hearing is not required of each variance, however.

EPA review of State action

The Committee contemplates that EPA will carefully review the variances which are granted by States to assure that the State has not abused its discretion in granting variances and has not failed to impose reasonable control measures.

If the Administrator finds that, in a substantial number of cases, the State has granted variances which were clearly unwarranted or has failed to impose reasonable control measures during the period of the variances, he must notify the State of this finding. The notice must include, among other things, proposed revocations of specific variances or revised control measure requirements or both.

Reasonable notice and public hearing on the notice must be provided by the Administrator before any final action may be taken. After such hearing the Administrator must either rescind his finding or must take action to promulgate the variance revocations and revised control measure requirements which he proposed. In order to afford States an adequate opportunity to take corrective action in response to the Administrator's notice, section 1415 precludes any action by the Administrator from taking effect for 90 days after the Administrator has sent notice of the proposed revocations and revised control measures. Moreover, if such timely corrective State action is forthcoming, the Administrator is required to rescind the application of his finding to the variance or control measure or other requirement which has been corrected.

This system of EPA oversight is intended by the Committee to confer maximum responsibility on States which make appropriate efforts to effectuate the purposes of the Act. While some EPA review of State granted variances from national regulations was deemed necessary by the Committee to assure the effectuation of the national policy, it is not intended that EPA engage in a case-by-case review or substitute its judgment for the well-exercised judgment of a State. EPA notice to

a State is warranted only when a significant number of cases can be shown of State action inconsistent with the intent of this bill.

In determining what constitutes a significant number of cases, the number of consumers affected by such variances should be considered.

EPA variance authority

Section 1415 also provides that public water systems in States which do not have primary enforcement responsibility may obtain variances from EPA in the same manner and under the same conditions as they could from the State, if it had primary enforcement responsibility.

In addition to the two types of variances which States may grant, section 1415 authorizes the Administrator to grant a different type of variance.

Under this final variance authority, the Administrator may grant a variance, upon application of a public water system or other interested person, if the applicant makes a showing to the Administrator's satisfaction that another treatment technique is of at least equal effectiveness to any treatment technique required by the Administrator under a primary drinking water regulation. A variance under this provision must be conditioned on the use of the alternative technique which is the basis of the variance.

Section 1415 also provides that the conditional requirements of variances, whether granted by EPA or by the States, are enforceable by EPA as if they were part of a national primary drinking water regulation.

SECTION 1416. EXEMPTIONS

Section 1416 authorizes any State which has primary enforcement responsibility to exempt a public water system from any maximum contaminant level requirement or from any treatment technique requirement upon a finding that the system is unable to comply due to compelling factors. These factors may include economic factors, such as the high cost of purchasing and constructing necessary equipment or facilities and the low per capita income and small number of residents in a community served by the system.

The authority to grant such exemptions is limited to public systems in operation on the effective date of the primary regulation. New systems which are placed into operation after that date are expected to comply with the requirements without any exemption. Moreover, in considering whether economic factors are sufficiently compelling to warrant an exemption under this section, it is anticipated that the States will weigh any planned expansion of existing facilities of the system. In the Committee's view, if a system has sufficient funds to permit substantial expansion of capacity and service, these funds should first be used to assure the safe quality of the drinking water presently being supplied. In such cases, States should be extremely reluctant to grant exemptions on economic grounds.

If a State does grant an exemption to any public water system under section 1416, it must within one year thereafter prescribe a schedule for bringing the system into compliance (including increments of progress) and for interim control measures during the pendency of the exemption. These schedules may be prescribed by the State only after notice and opportunity for a public hearing on the proposed schedule.

The compliance schedule must provide for compliance by the system with the requirements of the primary regulations as expeditiously as practicable. In any event, however, the compliance date must be no later than January 1, 1981, in the case of an exemption from an interim regulation, and no later than seven years after the effective date of a revised regulation in the case of an exemption from such regulations (except that in either case two additional years may be granted if the system is entering into a regional water system).

This section also provides for a system of EPA review of State-granted exemptions. EPA is required to complete such a review within 18 months after the effective date of the interim regulations. The procedures and criteria for EPA review of State granted exemptions are parallel to those with respect to variances.

Section 1416 also provides that public water systems in States which do not have primary enforcement responsibility may obtain exemptions from EPA in the same manner and under the same conditions as they could from the State, if it had primary enforcement responsibility.

Part C—Protection of Underground Sources of Drinking Water

Section 1421. Regulations for State programs

Guidelines for State programs

Section 1421 is intended to establish a Federal-State system of regulation to assure that drinking water sources, actual and potential, are not rendered unfit for such use by underground injection of contaminants. The guidelines for the States' regulatory programs are to be promulgated by the Administrator within 360 days after enactment. Such promulgation is to be preceded by proposal and opportunity for public hearing as well as opportunity to comment in accordance with 5 U.S.C. 533. Such promulgation is also to be preceded by consultation with the Secretary and the Council and other appropriate Federal and State entities.

The Administrator's guidelines for State underground injection control programs must, as a minimum, require States to (1) prohibit unauthorized underground injection effective three years after enactment of this bill; (2) require applicants for underground injection permits to bear the burden of proving to the State that its injection will not endanger drinking water sources; (3) refrain from adopting regulations which either on their face or as applied would authorize underground injection which endangers drinking water sources; (4) adopt inspection, monitoring, recordkeeping, and reporting requirements for the purpose of this Part; and (5) apply their injection control programs to underground injections by Federal agencies and by any other person whether or not occurring on Federally-owned or leased property.

Furthermore, the Committee seeks to have several major policies implemented. First, potential as well as presently-used drinking water sources are to be protected. Second, the protection is to apply to any injected substance (or derivative thereof) whether or not that substance is a contaminant subject to national primary drinking water regulations. Thus the injection is to be subject to regulation or pro-

hibition if the injected substance may cause or contribute to noncompliance with a national primary drinking water regulation or if it may otherwise adversely affect the public health, including causing or contributing to the water's unfitness for human consumption.

Numerous public and private agencies which have considered the matter have become concerned about the substantial hazards and dangers associated with deep well injection of contaminants. Dow Chemical Corporation, which had pioneered deep well injection as a method of industrial waste disposal, has decided to stop drilling new wells and to phase out existing wells, because of these hazards. New York State has declared that it will regard deep well injection as a "last resort" after evaluation of all other methods. Nine other States currently reject or discourage applications for injection systems. The U.S. Geological Survey and the Bureau of Mines have expressed increasing worry about the indiscriminate "sweeping of our wastes underground." Some commentators have even termed injection well actions as "ultrahazardous activity".

Nonetheless, underground injection of contaminants is clearly an increasing problem. Municipalities are increasingly engaging in underground injection of sewage, sludge, and other wastes. Industries are injecting chemicals, byproducts, and wastes. Energy production companies are using injection techniques to increase production and to dispose of unwanted brines brought to the surface during production. Even government agencies, including the military, are getting rid of difficult to manage waste problems by underground disposal methods. Part C is intended to deal with all of the foregoing situations insofar as they may endanger underground drinking water sources.

In requiring EPA to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources the Committee intends to ratify EPA's policy on deep well injection. (See 39 Fed. Reg. 12922–3, April 9, 1974) This policy was first adopted by the Federal Water Quality Administration of the Department of the Interior on October 15, 1970. The policy opposes storage or disposal of contaminants by subsurface injection "without strict control and clear demonstration that such wastes will not interfere with present or potential use of subsurface water supplies, contaminate interconnected surface waters or otherwise damage the environment." The Committee thus intends EPA to use these policy guidelines—including the exploration of alternative measures and the determination that they are less satisfactory than underground injection; preinjection tests; a geologic-hydrologic-geochemical survey and submission of such other information as is necessary to evaluate the acceptability of any proposed underground injection; the use of best available measures for pre-treatment; the use of best available techniques for design, siting, construction, operation, maintenance, and abandonment of the injection system; provisions for adequate and continuous monitoring of operations and effects—as the basis for establishing minimum requirements for effective State programs.

In addition, the Committee intends that the Administrator should incorporate in such guidelines requirements for preparation of adequate contingency plans to cope with malfunction or failure of the system including alarm and fail-safe measures; provisions for the

posting of bond or such other measures as may be necessary to assure the availability of adequate financial resources for dealing with underground injection systems which either must be abandoned or cause damage to, or contamination of, public or private drinking water sources; limitations on the aggregate volume of contaminants which may be injected and on the pressure at which such injection may occur; and, if necessary to effectuate the purpose of Part C, prohibition of underground injection in designated areas which are unsuitable for this purpose because of the presence of presently-used or potential drinking water sources.

Procedures for controlling underground injections

In order to implement these controls to protect drinking sources with minimum administrative redtape, the Committee decided to allow EPA discretion to require States to utilize a permit system, rulemaking, or a combination of the two to control underground injection.

In adopting this approach, the Committee was intent on allowing the Environmental Protection Agency sufficient leeway to adopt a program which would be administratively compatible with, and nonduplicative of, the permit provisions of the Federal Water Pollution Control Act.

Temporary permit authority

The Committee recognized that some States may be unable to process all permit applications for new and existing underground injection wells within the three year deadline established by the bill. Consequently, upon application by the Governor, the Administrator may at his discretion allow the States to issue temporary permits for an additional year. The Administrator may only allow the issuance of such temporary permits, however, under the following conditions: (1) the State must bear the burden of proving that it could not process all permit applications in time; (2) the temporary permits may only be issued for unprocessed permit applications for injection wells in operation at the time of EPA's approval of the State program; (3) the temporary permits must require use of generally available techniques to minimize the likelihood of contaminating drinking water sources; and (4) the Administrator must determine that the issuance of temporary permits is warranted notwithstanding the adverse environmental (including public health) effects.

In addition to authorizing EPA to allow State issuance of one year temporary permits, section 1421(c)(2) authorizes EPA to allow States to issue one-year temporary permits a particular injection well and for the underground injection of a particular fluid if there is no method for safe injection of the fluid and if injection would be less harmful to the public health than other alternative means of treating or dealing with it.

These temporary permits under section 1421(c)(2), which are in effect variances, are to be allowed only in very limited circumstances. First, they may not be made effective beyond four years after date of enactment of this bill. This is true whether or not a temporary permit has been issued under such section 1421. If the injection cannot be made so as not to endanger drinking water sources within four years after enactment, the operation of the well must be termi-

nated. Second, all efforts must be made to reduce the harmfulness of the injected fluid and to maximize protection of the public health during the pendency of the temporary permit. Third, such a temporary permit may only be authorized if the State has held a formal adjudication, has made the requisite determinations on the record of the hearing, and has submitted an application signed by the Governor for authority to issue such a temporary permit.

"*Underground injection*".

Finally, section 1421 contains two important definitions. The definition of "underground injection" is intended to be broad enough to cover any contaminant which may be put below ground level and which flows or moves, whether the contaminant is in semi-solid, liquid, sludge, or any other form or state.

This definition is not limited to the injection of wastes or to injection for disposal purposes; it is intended also to cover, among other contaminants, the injection of brines and the injection of contaminants for extraction or other purposes. While the Committee does not intend this definition to apply to septic tanks or other individual residential waste disposal systems, it does intend that the definition apply to a multiple dwelling, community, or regional system of injection of waste.

The application of Part C to the activities of oil and natural gas producing industries was a subject of substantial discussion before the Committee. The Committee rejected an amendment comparable to the exclusionary language of section 502(6) of the Federal Water Pollution Control Act. Instead, the Committee adopted an amendment expressing its intent not to authorize needless interference with oil or gas production. This amendment prohibits regulations for State underground injection control programs from prescribing requirements which would interfere with production of oil or natural gas or disposal of biproducts associated with such production, except that such requirements are authorized to be prescribed if essential to assure that underground sources of drinking water will not be endangered by such activity.

The Committee's intent in adopting this amendment was not to require EPA to bear an impossible burden of proof as a condition of promulgation of any such regulation. Rather, the Committee sought to assure that constraints on energy production activities would be kept as limited in scope as possible while still assuring the safety of present and potential sources of drinking water. Similar provisions were adopted with respect to EPA regulations which are to be promulgated when a State fails to adopt an approvable underground injection control program.

In deciding what is an "essential" requirement, the Committee intends that the types of measures referred to in the Administrator's Decision Statement Number 5 and those referred to in this report be considered to be "essential" unless the contrary could be demonstrated with respect to a specific well or injection. Moreover, in using the words "interfere with or impede" the Committee did not intend to include every regulatory requirement which would necessitate the expenditure of time, money, or effort. Rather, the Committee intended to refer to those requirements which could stop or substantially delay production of oil or natural gas.

Endangerment of drinking water sources

The section also defines "underground injection which endangers drinking water sources." It is the Committee's intent that the definition be liberally construed so as to effectuate the preventive and public health protective purposes of the bill. The Committee seeks to protect not only currently used sources of drinking water, but also potential drinking water sources for the future. This may include water sources which presently exceed minimum intake water quality requirements or maximum contaminant levels or which are not presently accessible for use as a community drinking water supply source.

Thus, for example, the Committee expects the Administrator's regulations at least to require States to provide protection for subsurface waters having less than 10,000 p.p.m. dissolved solids, as is currently done in Illinois and Texas, even though water containing as much as 9,000 p.p.m. would probably require treatment prior to human consumption.

Further contamination of such sources should not be permitted if there is any reasonable likelihood that these sources will be needed in the future to meet the public demand for drinking water and if these sources may be used for such purpose in the future.

The Committee was concerned that its definition of "endangering drinking water sources" also be construed liberally. Injection which causes or increases contamination of such sources may fall within this definition even if the amount of contaminant which may enter the water source would not by itself cause the maximum allowable levels to be exceeded. The definition would be met if injected material were not completely contained within the well, if it may enter either a present or potential drinking water source, and if it (or some form into which it might be converted) may pose a threat to human health or render the water source unfit for human consumption. In this connection, it is important to note that actual contamination of drinking water is not a prerequisite either for the establishment of regulations or permit requirements or for the enforcement thereof.

Coordination with USGS

The Committee intends that the Environmental Protection Agency will, in the exercise of its responsibilities under this bill, coordinate and consult with the United States Geological Survey so that EPA will not duplicate efforts of the U. S. G. S. to prevent groundwater contamination under the Mineral Leasing Act. The Committee does not intend any of the provisions of this bill to repeal or limit any authority the U. S. G. S. may have under any other legislation.

SECTION 1422. STATE PRIMARY ENFORCEMENT RESPONSIBILITY

This section requires the Administrator to list all States which ought to have underground injection control programs. It is anticipated that this list, which must be published within 180 days of enactment, would include all 50 States, but perhaps not the District of Columbia and various territories and possessions.

Each State which is listed must adopt an underground injection control program which meets the requirements of the Administrator's regulations for such program. The State's program must be adopted

after reasonable notice and public hearing and must be submitted to EPA within 270 days after promulgation of the Administrator's regulations. In addition, the State must submit evidence that it will implement its program and will keep records and reports required by EPA.

Upon receipt of a State's submission, EPA is directed to give public notice thereof, provide opportunity for public hearing, and solicit public comment in accordance with 5 U.S.C. 553. Within 90 days after receipt of the State's submission, the Administrator shall approve or disapprove (in part or whole) the State's underground injection control program.

If the Administrator approves the State's program, the State will have primary enforcement responsibility for underground water sources. If he disapproves, or a State fails to submit a timely application for such primary enforcement responsibility, the Administrator must promptly propose, provide opportunity for public hearing, and solicit comment in accordance with 5 U.S.C. 553 on a program for underground injection control for that State. Within 90 days after his disapproval or the date on which the State is required to make its submission, the Administrator must promulgate such a program for the State.

Once a State is determined to have primary enforcement responsibility for underground water sources, it continues to do so until the Administrator makes a contrary determination in accordance with 5 U.S.C. 553 and after opportunity for public hearing.

When the Administrator amends any regulation under section 1421 so as to revise or add a requirement respecting State underground injection control programs, each State is to submit to the Administrator a notice containing a satisfactory showing that the State's program meets the requirements of the Administrator's regulations in effect under section 1421, as amended. The timeframe and procedure for EPA's review and approval (or disapproval/promulgation) of a State's notice is the same as for the Agency's review of a State's initial application for primary enforcement responsibility for underground water sources.

SECTION 1423. FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

Basically, this section parallels the provisions of 1414. It requires notice by the Administrator to any State with primary enforcement responsibility for underground water sources before EPA may commence enforcement actions against any alleged violator of a requirement of an applicable underground injection control program. No such notice is required if the State does not have primary enforcement responsibility for underground water sources.

As is the case in section 1414, the notice by EPA must be followed by a 15-day opportunity for the State to submit a report as to the steps being taken by the State to secure compliance by the alleged violator. If this report is not submitted in timely fashion by the State, the Administrator would be authorized to commence an enforcement action. Even if such a report were submitted in timely fashion if the State failed to abate the violation within 60 days after the original

notice, this would *per se* constitute an abuse of discretion by the State and Federal enforcement would be authorized. Thus, one respect in which this section differs from section 1414 is that here compliance by the violation must occur within 60 days in order to preempt Federal enforcement, whereas in section 1414 all that is required is that the State implement adequate procedures within 60 days to bring the system into compliance by the earliest feasible time.

Suits for injunctive relief are authorized to be brought by the Administrator in Federal district courts to compel compliance with the applicable control program. Violations are also punishable by civil penalties of up to $5,000 per day. Willful violations are subject to an additional criminal fine of up to $5,000 per day.

Finally, the section preserves the rights of State (and local) governments to adopt and enforce any requirement concerning underground injection. The section makes clear, however, that compliance with any such requirement will not relieve any person of any duty to comply with requirements imposed pursuant to this legislation.

SECTION 1424. INTERIM REGULATION OF UNDERGROUND INJECTIONS

Section 1424 is designed to deal with a limited problem which may arise in the three year period before State underground injection control programs become effective under section 1421. This problem may arise if an area has one acquifer which is the sole or principal drinking water source and which would pose a significant hazard to public health (short of imminent and substantial endangerment), if it were contaminated.

In such a case the Administrator is authorized upon petition of any person to designate this area as one in which no new underground injection well (as that term is defined in subsection (d)) may be operated, unless he has issued a permit for such operation. The Administrator's authority to make such a designation terminates on the date on which the applicable underground injection control program for that area becomes effective.

Public notice and opportunity to comment must be provided prior to the making of any designation under this section, unless the Administrator waives such procedures for just cause under 5 U.S.C. 553. Final action by the Administrator on a petition under this section is required within 30 days after notice is published.

Once the designation is made, no new injection wells (as defined) may be operated in that area without a permit from the Administrator. Petitions for permits are to be considered after notice and opportunity for hearing on the record. Final disposition of such a petition must be made within 120 days of publication of notice receipt of the petition.

In this proceeding the burden of proof would, of course, be on the petitioner. The Administrator may issue a permit under this section only if he finds that operation of the proposed injection well will not cause contamination of the acquifer so as to create a significant hazard to public health.

Section 1424(c) provides for injunctive relief, civil and criminal penalties which may be imposed on any violator of the provisions of this section.

PART D—GENERAL PROVISIONS

SECTION 1431. EMERGENCY POWERS

Section 1431 reflects the Committee's determination to confer completely adequate authority to deal promptly and effectively with emergency situations which jeopardize the health of persons.

The authority conferred by this section is intended to override any limitations upon the Administrator's authority found elsewhere in the bill. Thus, the section authorizes the Administrator to issue such orders as may be necessary (including reporting, monitoring, entry and inspection orders) to protect the health of persons, as well as to commence civil actions for injunctive relief for the same purpose.

The authority to take emergency action is intended to be applicable not only to potential hazards presented by contaminants which are subject to primary drinking water regulations, but also to those presented by unregulated contaminants.

The authority conferred hereby is intended to be broad enough to permit the Administrator to issue orders to owners or operators of public water systems, to State or local governmental units, to State or local officials, owners or operators of underground injection wells, to area or point source polluters, and to any other person whose action or inaction requires prompt regulation to protect the public health. Such orders may be issued and enforced notwithstanding the existence of any exemption, variance, permit, license, regulation, order or other requirement. Such orders may be issued to obtain relevant information about impending or actual emergencies, to require the issuance of notice so as to alert the public to a hazard, to prevent a hazardous condition from materializing, to treat or reduce hazardous situations once they have arisen, or to provide alternative safe water supply sources in the event any drinking water source which is relied upon becomes hazardous or unuseable.

Willful violation of the Administrator's order is made punishable by a fine of up to $5,000 per day of violation.

In using the words "that appropriate State or local authorities have not acted to protect the health of persons," the Committee intends to direct the Administrator to refrain from precipitous preemption of effective State or local emergency abatement efforts. However, if State or local efforts are not forthcoming in timely fashion or are not effective to prevent or treat the hazardous condition, this provision should not bar prompt enforcement by the Administrator.

In using the words "imminent and substantial endangerment to the health of persons," the Committee intends that this broad administrative authority not be used when the system of regulatory authorities provided elsewhere in the bill could be used adequately to protect the public health. Nor is the emergency authority to be used in cases where the risk of harm is remote in time, completely speculative in nature, or *de minimis* in degree. However, as in the case of *U.S.* v. *United States Steel*, Civ. Act. No. 71-1041 (N.D. Ala. 1971), under the Clean Air Act, the Committee intends that this language be construed by the courts and the Administrator so as to give paramount importance to the objective of protection of the public health. Administrative and judicial implementation of this authority must occur early enough to prevent

the potential hazard from materializing. This means that "imminence" must be considered in light of the time it may take to prepare administrative orders or moving papers, to commence and complete litigation, and to permit issuance, notification, implementation, and enforcement of administrative or court orders to protect the public health.

Furthermore, while the risk of harm must be "imminent" for the Administrator to act, the harm itself need not be. Thus, for example, the Administrator may invoke this section when there is an imminent likelihood of the introduction into drinking water of contaminants that may cause health damage after a period of latency.

Among those situations in which the endangerment may be regarded as "substantial" are the following: (1) a substantial likelihood that contaminants capable of causing adverse health effects will be ingested by consumers if preventive action is not taken; (2) a substantial statistical probability that disease will result from the presence of contaminants in drinking water; or (3) the threat of substantial or serious harm (such as exposure to carcinogenic agents or other hazardous contaminants).

SECTION 1441. ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

Temporary certification authority

Section 1441 authorizes the Administrator to issue certificates of need for chlorine or other chemicals or substances necessary for treatment of water in public water systems or in public wastewater treatment works. A certificate of need may be issued upon a petition of any person who uses such chemical or substance in a public water system or public treatment works, but who is (or will be) unable to obtain the amount needed for effective treatment. This provision is intended to permit a petition to be filed in advance of the date on which the system or treatment works will completely run out of the required chemical or substance.

The procedures governing submission and consideration of a petition for certification of need are set forth in subsection (b). No later than 30 days after the notice of receipt of a petition has been published, unless such notice is waived to protect the public health, the Administrator must act to grant or deny the certificate. This period is a maximum, and the Committee would anticipate even more prompt action by EPA in the case of a severe shortage or complete lack of necessary substances. The Committee, of course, encourages producers to take the initiative upon the publication of notice to voluntarily supply the petitioners, thereby making a government action unnecessary.

If, however, the requirements of the petitioner are not met on a voluntary basis and if the Administrator issues a certificate of need, he is to specify the chemical or substances needed, the amount which is needed, and the time period for which it is needed. No certificate may remain in effect for more than one year, although subsequent additional certifications may be issued to the same person. The purpose of this provision is to assure that at least annually the Administrator will take a fresh look at market conditions and the efforts of the petitioner to see whether the chemical or substance would continue to be unavailable to that person, absent mandatory allocation orders.

Required allocation order

Not later than seven days after the issuance of a certificate of need, the President (or the agency or department to whom he delegates the responsibility) must issue a mandatory allocation order which will assure that the needed amount of the chemical or substance will be provided at the required time to the person for whom the certificate of need was issued. (Here again prompt action by the President or his delegate is expected by the Committee in case of serious shortage or depletion of supply.) The President (or his delegate), thus, has discretion in deciding who will be ordered to supply the certified amount, but not in whether to issue an order to do so.

When the President exercises his discretion as to whom allocation orders will be directed, the Committee intends that the aggregate of the orders under this section are to apply equitably within the class of manufacturers, producers, and processors and within the class of repackagers and distributors. The purpose of this provision is to prevent any one segment of the suppliers industry from being subject to unreasonable or disproportionate burdens under this section.

In carrying out the requirement for equitable apportionment of allocation orders, the President (or his delegate) is directed to consider a number of factors. Among these are geographical and established commercial relationships; in the case of chlorine, the amount of chlorine historically supplied by each producer for the purposes specified in this section and each producer's share of the total annual production of chlorine in the United States; and such other factors as are relevant to assuring equitable apportionment.

Orders, like certifications, under this section may remain in effect for only 1 year. However, additional orders may be issued to the same person to supply a person he has previously been ordered to supply if additional certifications of need have been issued.

Orders are not to be issued to a producer, manufacturer, or processor who produces these chemicals or substances solely for its own use. If the Administrator determines that a producer, processor, or manufacturer switches to completely "in-house" use of chemicals or substances with intent to avoid being subject to orders under this section, the Administrator should promptly notify the House Interstate and Foreign Commerce Committee, so that appropriate legislative action can be taken, although the Committee expects that the industry will not attempt to circumvent the intent of this section.

Finally, criminal and civil penalties and injunctive relief by violation of orders under this section are provided. Either the Administrator of EPA or the President (or his delegate) is authorized to commence suits for injunctive relief to enforce allocation orders.

The authority provided under this section expires after June 30, 1977.

SECTION 1442. RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

Section 1442 authorizes the Administrator to conduct research, studies, and demonstrations, relating to the causes, diagnosis, treatment, control, and prevention of disease resulting from contaminants in water or relating to the provision of a dependably safe supply

of drinking water. The purposes explicitly mentioned in section 1442(a)(1) are intended to be illustrative, not limiting in nature.

The Administrator is also directed, to the maximum extent feasible, to provide technical assistance to the States and municipalities in the establishment and administration of "public water system supervision programs" (as defined in section 1443(c)(1)). This direction is in keeping with the Committee's basic intent to assure that State and local government will be primarily responsible for assuring the safety of drinking water.

In addition to these broad authorities contained in section 1421(a)(1), the Administrator is mandated to conduct certain specified studies. First, he is required to study the costs of implementing the national drinking water regulations and to make periodic reports to Congress thereon. These reports should be submitted at least biennially. Second, the Administrator is required to conduct a survey of waste disposal practices (including practices other than underground injection) which may contaminate presently used or poential underground drinking water supplies. This study, which must evaluate means of controlling waste disposal practices to prevent such contamination, is to be completed within one year after date of enactment of the title.

Section 1442 also mandates studies of methods of nonpolluting underground injection; methods of preventing, detecting, and dealing with surface spills of contaminants which may pollute underground drinking water sources; methods of controlling virus contamination of drinking water; the impact of abandoned wells, pesticides and fertilizers, and surface disposal of contaminants on surface and underground drinking water sources. These studies should be completed within two years after the date of enactment of the title.

The Committee intends that the development and implementation of EPA's research program be commenced promptly upon enactment of this bill. It is not intended that research planning and funding be delayed until the NAS completes its study and makes its report under section 1412. Rather, the NAS report should be used to assist and guide the research program which EPA has begun to carry out.

Moreover, it should be clear that the research program authorized in this section must be tailored to produce the information necessary to effectuate the mandates of the bill. Funds to obtain other information which the Administrator believes helpful or interesting should not be committed until all research needs to effectuate this legislation have been fulfilled.

The provisions of section 1442 are among the most essential for the development and implementation of effective State underground injection control programs. Without studies and research on the causes, treatment, control and prevention of contamination of ground water, efforts to protect this important source of drinking water will be severely hindered. In past years, responsibility for research on ground water contamination has been carried out in EPA's Robert S. Kerr Environmental Center. However, the existing staff of researchers at the Kerr Center is limited to 8 persons. In the Committee's view, this

number will have to be increased to at least 40 persons in order to meet the mandates of this bill within the time constraints imposed. In light of this need, the Committee anticipates that the Administrator will use the authorized funds under this section to continue, increase, and expand the direct research, technical assistance, and research grant and contract programs of the Kerr Center pertaining to protection of underground water sources.

For the purposes of this section, there are authorized to be appropriated $15,000,000 for FY 1975; $25,000,000 for FY 1976, and $35,000,000 for FY 1977.

"SECTION 1443. GRANTS FOR STATE PROGRAMS

Section 1443 requires the Administrator to make start-up and continuation grants to those States which he determines will assume primary enforcement responsibility for public water systems within a year after award of the grant. To the extent that the applicable appropriation permits, an allotment of $50,000 per State (with approved grant application) is to be made by the Administrator. Additional amounts from the sums appropriated must be allotted on the basis of population, area, number of public water systems, and other relevant factors.

For each fiscal year during which the State is in compliance with grant regulations established by the Administrator, he is required to pay out of that State's allotment not more than 75 per cent of the costs of carrying out a "public water system supervision program", as that phase is defined in section 1443(c)(1). No continuation grant to a State may be made, unless the State has been determined by the Administrator to have primary enforcement responsibility for public water systems.

To carry out subsection (a), there are authorized to be appropriated $15,000,000 for FY 1976 and $25,000,000 for FY 1977.

Subsection (b) establishes a similar grant program for aiding States which will assume primary enforcement responsibility for underground water sources. There are several noteworthy differences, however. First, subsection (b) allows up to two years for the State to start up this part of its program while receiving grant assistance. Second, subsection (b) imposes no flat allotment requirement. Third, in making grants under subsection (b) the Administrator is expected to consider any awards which have been made to the State for similar purposes under the Federal Water Pollution Control Act. This consideration should be geared to avoiding duplication and payments which in the aggregate exceed 75 per cent of costs. Too carry out subsection (b), there are authorized to be appropriated $5,000,000 for FY 1976 and $7,500,000 for FY 1977.

The Committee recognizes that the grants to State programs envisaged here were not proposed by the Administration in its drinking water bill. However, the Committee believes that without such assistance to the States the shared objective of primary enforcement responsibility in the States would be frustrated.

SECTION 1444. SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

This section authorizes the Administrator to make project grants to develop and demonstrate new or improved methods for providing dependably safe drinking water and to investigate and demonstrate health implications involved in reuse of waste water for drinking and processes and methods for assuring its safety. The Committee has, in particular, directed that the Administrator give priority in the award of special project grants to those areas and projects designed to deal with removal of particles, such as asbestos, or other contaminants, such as virus, which may not be removable from the drinking water supply with normally used treatment methods technology or other means.

An example of the type of situation which the Committee intends to receive priority funding is the removal of sub-microscopic asbestos particles from the drinking water supply of Lake Superior. A Federal Inter-agency Task Force is presently examining this problem. The Committee intends that this provision be used to support and extend the Task Force's effort.

There are authorized to be appropriated for special project grants $7,500,000 for FY 1975; $7,500,000 for FY 1976; and $10,000,000 for FY 1977.

In addition, the section authorizes the Administrator to guarantee loans made by private lenders to small public water systems to enable them to comply with national primary drinking water regulations. What constitutes a "small" system is to be defined by the regulations of the Administrator. However, one indicator that a system should be considered small is if it cannot generate adequate revenue to permit compliance with the regulations through reasonable user charges. Loan guarantees are authorized only if the system would otherwise be unable to obtain necessary financial assistance and if the facilities constructed, equipment purchased, or other purchase made with the borrowed funds would not be rendered obsolete by reasonably anticipatable changes in the primary regulations. The bill contains a $10,000 limit on the aggregate amount of indebtedness which may be guaranteed under this provision.

SECTION 1445. RECORDS AND INSPECTIONS

This section establishes broad authority in the Administrator to make rules requiring record keeping, reporting, monitoring, and the provision of information to enable him to carry out the purposes of the bill. In this regard, the Committee believes that informing the public of the quality of water being delivered to consumers is a primary purpose of the Act. Consequently, the Committee expects that the Administrator would require all public water systems to notify him frequently of the quality of the water being provided for human consumption and that he would make such information public if the system has not already done so.

Section 1445 further authorizes the Administrator to enter and inspect the property of any person who supplies water, who is or may be subject to a national primary drinking water regulation or to an

applicable underground injection control program, who is or may be subject to a permit requirement under section 1424 or to an order under section 1441, or who is a grantee, to enable the Administrator to effectuate the purposes of the bill. The Administrator is also authorized with respect to any such person to require the establishment and maintenance of records, the making of reports, the conduct of monitoring or sampling, and the provision of information. Such requirements must, of course, be reasonable. Federal agencies are subject to such requirements to the same extent as any other person.

Failure to comply with the record keeping, reporting, monitoring, and information providing requirements established by the Administrator or to permit entry and inspection shall make the person responsible liable to a criminal fine of up to $5,000.

Subsection (d) provides that in general trade secret or secret process information is not to be disclosed by the Administrator. However, such information may be disclosed under circumstances specified in paragraph (2), notwithstanding the prohibition of 18 U.S.C. 1905. Moreover, the Committee intends that the claimant of the right of confidentiality bear the burden of proving that its disclosure would divulge a trade secret or secret process.

Finally, the section indicates that Federal agencies are subject to the same reporting, record keeping, monitoring, information providing, and entry and inspection requirement as any other person.

SECTION 1446. NATIONAL DRINKING WATER ADVISORY COUNCIL

Section 1446 provides for the appointment of a 15 member National Drinking Water Advisory Council. Council members are to be appointed by the Administrator after consultation with the Secretary of HEW. The Council is to provide advice and recommendations to the Administrator or proper administration and implementation of the act. Finally, the section provides three general categories from which membership of the committee is to be selected. In order to assure balance on the Council, the Committee anticipates that the Administrator would include in his appointments at least one representative of an environmental protection group, one consumer representative, one representative of State agencies regulating water service and prices, and one represenative of industry engaging in underground injection. In addition, the Committee anticipates that some representation by the water supply industry would be provided on the National Council.

SECTION 1447. FEDERAL AGENCIES

Section 1447 requires each Federal agency with jurisdiction over a public water system or underground injection activities to comply with national primary drinking water regulations and with requirements of applicable underground injection control programs. Waiver of the duty to comply with underground injection control programs is authorized, but only if the President determines such waiver is necessary for the National security. No such waiver of the duty to comply with national primary drinking water regulations is author-

ized. In enforcing compliance by Federal agencies, each agency is expected to be initially responsible with States and EPA exercising ultimate responsibility, including the duty to commence enforcement actions under sections 1414 and 1423, in the event the agency in question fails to assure timely compliance or obtain a waiver.

It is the intent of the Committee that the States with primary enforcement responsibility and EPA will treat Federally-owned or operated public water systems or underground injection wells or any other system or underground injection wells on Federal property the same as any other public water system or underground injection well and will enforce applicable regulations to the same extent and under the same procedures. Thus, for sample, if permits are required to be obtained by non-Federal agencies and by private persons, Federal agencies would likewise be subject to the requirement to obtain permits. The only exception to this mandate is a Presidential waiver.

This provision and the provision contained in section 1421(b) are intended to constitute express consent to be sued, which thus waives the traditional sovereign immunity principle and defense.

SECTION 1448. GENERAL PROVISIONS

This section establishes general provisions for implementation of the title. First, the Administrator is granted authority to prescribe such regulations as are appropriate to carry out his functions under the bill.

Second, the section precludes the award of any grant to profit-making groups or associations. Third, the section requires the Administrator to request the Attorney General to represent him in any civil action brought under this title. If the Attorney General fails to notify him within a reasonable time of his willingness to represent him, the Administrator is authorized to be represented by attorneys of the Environmental Protection Agency. Fourth, the section preserves all pre-existing authority of the Administrator.

Fifth, the section provides for EPA to submit an annual report to Congress on its progress in implementing the legislation. The annual report is required to include a statement of the actual and anticipated cost to public water systems (on a State-by-State basis) of compliance with the requirements of the bill.

The Committee expects these annual statements to be as complete as possible. In reexamining this legislation prior to expiration of the authorizations herein, the Committee will carefully review the costs which are being and will be imposed on public water systems to assure that they are justified.

It is also expected that the annual report will include information on the number, duration, and location of variances, exemptions, violations, Federal enforcement actions commenced, petitions for hearing under section 1414(f), hearings conducted in response to such petitions, actions taken to implement section 1431, and other appropriate information respecting the Agency's activities in implementing this bill during the reporting period.

Provisions in previous bills reported by the subcommittee, H.R. 9726 and H.R. 10955, pertaining to the applicability of the National

Environmental Policy Act to actions taken under this bill have been deleted. The determination was made that this is a matter which should properly be considered by the Committee on Merchant Marine and Fisheries, from which the National Environmental Policy Act originated.

Section 3. Rural water survey

This section requires the Administrator of EPA to conduct a survey of the drinking water situation in rural areas of the country, including the public health hazards to which rural populations may be exposed. This survey is to be completed within 18 months after date of enactment and a report is to be submitted within six months thereafter. For the purpose of the survey and report, there are authorized to be appropriated $1,000,000 for FY 1975, $2,000,000 for FY 1976, and $1,000,000 for FY 1977.

Section 4. Bottled drinking water

This section amends Chapter IV of the Federal Food, Drug, and Cosmetic Act by creating a new section 410. This section leaves the responsibility for regulating bottled drinking water with the Secretary of HEW. However, the new section 410 requires the Secretary to consult with the Administrator prior to establishing regulations for bottled drinking water. Moreover, it requires the Secretary, within 180 days after the Administrator promulgates national interim or revised primary drinking water regulations either to amend regulations applicable to bottled drinking water to take account of the administrator's action or to publish his reasons for not doing so in the Federal Register.

Agency Comments

The following agency comments were received by the Committee on H.R. 13002:

United States Environmental Protection Agency,
Washington, D.C., April 25, 1974.

Hon. Harley O. Staggers,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In response to a letter from Senator Magnuson, Chairman of the Senate Commerce Committee, we have provided to his Committee our comments on the Working Draft (dated April 3, 1974) of S. 2846, the Senate "Emergency Chlorine Allocation Act of 1974."

As our comments on the Senate bill are also relevant to section 1432 (relating to chlorine allocation) of H.R. 13002, the "Safe Drinking Water Act" pending before your Committee, we are forwarding our comments on the Senate bill to you for consideration by your Committee.

Sincerely yours,

Russell E. Train,
Administrator

Enclosure.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., April 11, 1974.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our comments on the Working Draft (dated April 3, 1974) of S. 2846. the "Emergency Chlorine Allocation Act of 1974."

The bill would authorize the Administrator of EPA to certify to the Secretary of the Department of Commerce that there is a shortage of chlorine or other chemicals necessary for the treatment of drinking water or of chlorine necessary to protect the public health. Upon receiving such certification the Secretary would require the allocation of chlorine or other chemicals to assure an adequate supply to treat drinking water or to protect the public health. Procedures are set out in the bill for the Administrator and the Secretary to carry out their responsibilities. The legislation would expire on June 30, 1976.

The Environmental Protection Agency testified before your Committee on January 29, 1974, on S. 2846. In our statement we gave our views relating to the possibility of a chlorine shortage this year and our recommendations of what Federal legislation is needed. With several exceptions the Working Draft of S. 2846 is consistent with our views and we would support its enactment if revised in accordance with our recommendations set out below.

Our principal problems with the Working Draft relate to the (1) inclusion of chlorine allocation authority for wastewater and other purposes in addition to drinking water, (2) inclusion of "other chemicals" in addition to chlorine that may be subject to allocation, (3) the public notice provisions required by the Administrator and the Secretary before they may make the certification or allocation, and (4) the authority for the issuance of a 180 day allocation order and expiration date of the Act.

In our statement before the Committee on January 29 we pointed out that there is ample justification for providing standby chlorine allocation authority for insuring the safety of drinking water which is not present in other shortage situations. For the reasons given in our testimony, it is still our recommendation that the authority be limited to drinking water and not cover wastewater or other purposes.

We also believe that only cholrine should be subject to standby allocation orders and that the authority should not extend to other chemicals that may be used to treat drinking water. Other chemicals serve important public health roles in the treatment of drinking water although less important than chlorine. However, at the present time they are either not in significantly short supply or substitutes are available. For example, soda ash is in very short supply but lime and caustic soda are usually available as substitutes; alum and fluoride chemicals serve important uses but a serious shortage is not anticipated. While we did support in our January 29 statement the inclusion of other chemicals in the standby allocation authority, upon further review we now believe that this is not necessary.

With regard to the public notice provisions required of the Administrator and the Secretary before a certification may be made or an

allocation order may be issued by each, respectively, we believe that notice and publication in the *Federal Register* should not be required as the Working Draft provides. We believe that the standby authority should only be used where there is a shortage expected which constitutes an emergency and the Administrator and Secretary should then be able to act immediately. Where a time period is allowed and publication required in the *Federal Register*, with provisions for comments, this would tend to make users of cholrine file applications andticipating shortages and providing for the time to have the application processed, published and commented upon. There might not be a shortage if they could file their application later and expect immediate action. Much paper work and the review of a large number of applications could be prevented we believe if the extended public notice provisions were deleted.

We also do not believe that it is necessary to authorize the allocation orders to remain in effect for not to exceed 180 days. The allocation orders will be on a case-by-case basis and while we anticipate that an order could cover more than one single allocation, we do not want chlorine users to make application in order to guarantee up to a six months supply. We also do not believe that the cholrine shortage will extend into 1975 or 1976 and recommend that the Act be made to expire on December 31, 1974.

We also support a number of other revisions to the Working Draft which are being submitted to you in the response from the Department of Commerce. These relate to matters such as submission of reports to the Administrator and Secretary, inspection of records, and for confidentiality of material submitted.

Accordingly, we support the enactment of the Working Draft of S. 2846 if revised in accordance with our above recommendations.

We are advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the program of the President.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

In addition, the following agency comments were received by the Committee on H.R. 10955, which was a bill comparable to H.R. 13002.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., November 28, 1973.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to take this opportunity to comment on H.R. 10955, the Safe Drinking Water Act of 1973, which is awaiting action by the Committee on Interstate and Foreign Commerce.

I am aware that the Subcommittee on Public Health and the Environment held numerous sessions and the Subcommittee and its staff devoted many hours to the safe drinking water legislation during the past several months. I am also aware of the extended deliberations that were held by the Subcommittee during the Spring and Summer to develop this legislation and the fact that EPA staff worked closely

with the Subcommittee and its staff while the bill was under consideration. The Subcommittee is to be congratulated for the progress that it has made in developing the safe drinking water legislation which is now ready for review by the full Committee. It is my hope that the Committee will be able to take up the Subcommittee bill, H.R. 10955, in the near future. As you know, the Senate passed its Safe Drinking Water Act in June of this year.

The President proposed in his message on natural resources and the environment and forwarded to the Congress a safe drinking water bill. The bill, H.R. 5368, was introduced by you and Mr. Devine on March 7, 1973. The President reemphasized his commitment to this legislation on September 10, 1973 in his message to the Congress when he urged that the safe drinking water legislation be passed this year.

H.R. 10955, the Subcommittee bill which will be considered by the full Committee is in accord with the objective of the bill submitted by the President and the bills have many similar provisions. For instance, both bills would provide mandatory health-related standards applicable to public water supplies in the Nation; a public notification provision requiring the supplier of water to notify users if the drinking water fails to meet the health-related standards; Federal authority to proceed against imminent hazards; and a comprehensive authorization for research and studies addressed to drinking water supply problems.

The Subcommittee bill does, however, differ in several important respects from the proposal of the President to which I would like to call the Committee's attention. The issues which I would urge the Committee to reconsider are: (1) possibility of Federal domination of local enforcement authority, (2) Federal standards for operation and maintenance, (3) public notification and citizen suit requirements, (4) an expanded Federal assistance program, and (5) the ground water protection provisions.

POSSIBILITY OF FEDERAL DOMINATION OF LOCAL ENFORCEMENT AUTHORITY; FEDERAL STANDARDS FOR OPERATION AND MAINTENANCE; PUBLIC NOTIFICATION AND CITIZEN SUIT REQUIREMENTS

These provisions are so interrelated that they will be discussed together.

I believe that consideration of drinking water legislation should proceed from a proper identification of the differing Federal, State, and local responsibilities. Major responsibility for carrying out the day-to-day operations to assure safe drinking water should remain at the State and local levels.

I believe that the Federal responsibility should be limited to establishing national primary drinking water standards addressed to health-related constituents and including requirements for monitoring and reporting of water quality.

I do not think it is the role of the Federal Government to promulgate other standards for the implementation of State and local drinking water supply programs such as taste, appearance and odor control, operation and maintenance of systems, and selection of sources and sites for facilities—many of which would vary depending upon local conditions and desires. These should largely be left to State

and local regulation. I believe that mandatory Federal standards should be addressed to the essential end product—safe drinking water meeting health standards.

The enforcement approach that we favor is premised on the belief that a Federal requirement that suppliers of drinking water notify consumers of contaminants in their drinking water will institute the necessary enforcement action. An informed public is the best guardian of its own health and safety. Accordingly, I believe the legislation should require that whenever water delivered by a water supply system fails to meet the health standards, the supplier be obligated to notify its users of such failure and the possible resultant health effects. Such a notification provision, coupled with a citizen suit provision would I believe, render enforcement actions by Federal, State or other regulatory agencies largely unnecessary. I believe that suppliers of drinking water, who in almost all cases charge for their products could not withstand the public pressure if their customers have notice that they are receiving water not in compliance with mandatory health standards. The possibility of a citizen suit provides a strong additional incentive to suppliers to maintain compliance with the standards.

Under these circumstances Federal enforcement would be required only to insure that requirements for proper monitoring and reporting of the condition of a public water supply is being carried out, or in cases of imminent hazard.

Except in one important respect (a citizen suit requirement) H.R. 10955 would accomplish the objectives I have outlined above with regard to standard setting and enforcement. But the bill goes much further in providing more Federal enforcement authority than I believe is necessary or desirable.

I also strongly recommend that the legislation provide for Federal mandatory standards addressed only to the essential health-related factors of water constituents and monitoring and reporting. For instance, the legislation should not provide Federal mandatory standards on operation and maintenance. We believe this is unnecessary with the incentives that would result from public notification of contaminant violations. Furthermore, we are reluctant to prohibit State and local governments from tailoring their individual maintenance and operation requirements due to specific differences such as geography and climate.

H.R. 10955 does have an appropriate public notification requirement. As a complement to this provision, I strongly urge the addition of a citizen suit provision.

FEDERAL FINANCIAL ASSISTANCE

H.R. 10955 contains several provisions for extensive Federal financial assistance with regard to drinking water which I do not believe are necessary. These are State program grants, demonstration grants and guaranteed loans to assist small public water supplies in meeting the standards.

I believe that the safe drinking water program contemplated by the legislation will stimulate State and local interest to adequately fund such programs. The costs of treatment, testing, and monitoring have been and should continue to be derived from the users of the

water supply. I see no compelling reason for Federal intrusion in this area.

With regard to the demonstration grants provision in H.R. 10955, the need for extensive demonstrations is not apparent at this time. To the extent that special demonstrations are required, they would be funded under the general research provisions in the legislation.

An authorization is also provided for guaranteed loans to small public water systems where they cannot otherwise finance improvements needed to comply with primary standards. We are unaware of any widespread need for such assistance. However, in the event that problems should emerge, the Farmers Home Administration has authority to provide low interest loans to small communities for use on public water systems. Accordingly we do not recommend inclusion of the loan guarantee provision since it is unnecessary and would overlap the authority administered by the Farmers Home Administration.

PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

H.R. 10955 includes extensive provisions for a program to protect the underground sources of drinking water.

The Federal Water Pollution Control Act Amendments of 1972 contain a number of significant provisions relating to ground water protection. Since neither we nor the States and local communities have had opportunity to implement these provisions, it is premature to ascertain whether additional legislative protection of ground water is necessary. We have not yet been able to fully gauge the extent that the provisions in this Act will go toward providing protection of these underground sources. I would therefore recommend that the provisions in the Safe Drinking Water Act relating to underground source protection be deferred at this time until we are able to fully evaluate the protection provided under existing authority.

In accordance with your request, we are enclosing a five-year projection of Federal costs for implementing H.R. 10955.

These cost estimates do not reflect possible changes in the scope or quality of the proposed program which might result from experience gained in the implementation phase, from a reexamination of the priorities of all of the Agency's programs, or from other causes. Therefore, these estimates do not present a commitment as to the amounts to be included in future budgets.

In conclusion Mr. Chairman, I strongly endorse the objective of H.R. 10955 and many of its specific provisions. I respectfully request, however, that you and your Committee consider the views and recommendations I have suggested.

Please be assured that members of my staff and I stand ready to assist you in any way that we are able.

The Office of Management and Budget advises that it concurs with the views set forth in this letter.

Sincerely yours,

RUSSELL E. TRAIN.

In addition, the following agency comments were received on H.R. 11876, a bill which deals with subject matter similar to that dealt with in section 1432 of H.R. 13002:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., February 8, 1974.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foregin Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our comments on H.R. 11876, the "Emergency Chlorine Allocation Act of 1973" which is pending before the House Interstate and Foreign Commerce Committee.

The bill would direct the Administrator of the Environmental Protection Agency to promulgate regulations within 30 days after its enactment providing for the mandatory allocation of chlorine. He would also be authorized in consultation with the Secretary of Commerce to promulgate regulations providing mandatory allocation of other chemicals or substances used in the treatment of drinking water or wastewater as he deems necessary. Such regulations may require the performance of contracts relating to supplying chlorine or other chemicals for drinking water and wastewater treatment, and must delineate which functions under the legislation would be performed by EPA, Department of Commerce, or other Federal agencies. The bill would also provide exemptions from certain of the antitrust laws when complying with the Act. Finally, the legislation would expire on June 30, 1975.

The Environmental Protection Agency is in accord with the broad objectives of H.R. 11876. However, we believe that the bill goes further than is necessary and is otherwise not the appropriate mechanism to provide the Federal Government with necessary authority to deal with the chlorine shortage. We believe that the necessary authority to deal with any chlorine shortage which may materialize could best be provided through authority along the lines of the Defense Production Act.

The Environmental Protection Agency has given much consideration to the chlorine shortage problem during the past several months. Shortage and outage problems that have come to our attention this past year indicate that at least 27 water and wastewater utilities had shortages (down to 1–10 days supply on hand) during 1973; 9 wastewater utilities and at least 1 public water supply ceased chlorinating for periods up to two weeks because of outages or almost outages; and 6 repackaging companies had outages. These are only reported incidents that have come to our attention; it is very likely that many other shortages or even outage incidents actually occurred.

Chlorine is forecast to be in short supply throughout most of 1974 if current economic conditions continue. This could have a serious impact on chlorine users for drinking water and wastewater treatment. However, the shortfall will potentially affect only some fraction of these users since many producers have chosen to continue to provide supplies in spite of the shortage. Nearly one-half million tons of chlorine are estimated to be required for 1974 for drinking water and wastewater treatment. Even when there may technically be no shortages nationally, distribution problems could result in some shortages.

The Environmental Protection Agency has been keeping in close touch with local, State and other Federal agencies concerned with the chlorine shortage problem. We have also had some contact with chlorine producers and distributors. We have been dealing with individual shortage situations and have prevented some outage problems by contacting or meeting with public and industry officials. We have also provided our Regional Offices with guidance on responding to these shortage problems. Further, we have collaborated with the Department of Commerce and the General Services Administration with respect to determining and developing the appropriate role of Federal, State, and local agencies in responding to chlorine shortages.

Despite these efforts by EPA and other Federal agencies to remedy shortage problems through voluntary means, we are concerned that this may not be sufficient to cope with serious shortage situations if such should develop during 1974.

We therefore believe that there should be available, in case the need should arise, the necessary Federal authority to deal swiftly and effectively with critical public health problems that may be caused by shortage of chlorine. It is our view that this Federal authority should be limited to the following: (1) it should provide for *standby* authority to be used on case-by-case or other limited basis and not require the establishment of an extensive program for dealing with shortage situations; (2) it should authorize the standby mandatory authority to be used only in situations where there is a shortage or outage of chlorine and other chemicals necessary only for drinking water purification.

We also believe that efforts should be made to prevent and correct shortages through voluntary efforts prior to exercising the standby mandatory authority. Finally, we believe that the lead agency to administer an allocation program should be the Department of Commerce or some agency already having allocation experience with appropriate consultation and input from the Environmental Protection Agency and other Federal agencies.

We do not believe that it is necessary for the Federal Government to undertake an extensive mandatory allocation system for a situation that we believe is not going to occur on a large scale basis or in a great number of instances. We therefore do not see the need to have a large administrative force implementing an extensive program to prevent a relatively few shortage situations. On the other hand, a shortage or outage of chlorine or other necessary chemicals for drinking water purification is such a critical matter that it must be dealt with immediately and effectively. We strongly believe that while mandatory allocation authority is necessary, it need only be standby authority and not authority requiring the Federal Government to undertake a broad mandatory allocation system.

We also believe it sufficient to authorize this standby allocation authority for chlorine and other chemical substances necessary only for drinking water purification. Providing mandatory allocation authority to insure the safety of drinking water is readily distinguishable from other situations where shortages may occur. People that are served by public water supplies have no option but to drink the water

that is supplied to them; there is no reasonable substitute for safe water and usually no other place to obtain it. There must be no delay in obtaining a supply of chlorine should a shortage appear imminent—in other shortage situations there is time to proceed to overcome the shortage without an extreme emergency developing. Further, at this time there is no reasonable substitute for the chlorination of drinking water and because of the nature of this product it is not possible to guard against shortage situations by storing a supply. Even a short term interruption of the chlorination of drinking water while obtaining a new supply cannot be tolerated. Accordingly, there seems to be ample justification for providing standby allocation authority for insuring the safety of drinking water which is not present in other shortage situations.

We recommend that the Environmental Protection Agency not be the lead agency for an allocation program. The responsibilities of the EPA Administrator in the provision of safe drinking water direct that he should have an important function in the proposed allocation program. However, we believe that the primary responsibility for the allocation program should be conducted by a Federal agency which already has responsibilities in the allocation of scarce materials such as the Department of Commerce. It would be a waste of resources for EPA to duplicate the administrative machinery already in other agencies for implementing a standby mandatory allocation system of scarce materials. We would expect the Environmental Protection Agency to have the responsibility to provide surveillance and monitoring of such drinking water treatment operations and to keep the Department of Commerce and other agencies fully informed as to the adequacy of treatment and supplies of chlorine and other chemicals for drinking water in order that they may take any necessary action with regard to allocation.

We therefore do not recommend enactment of H.R. 11876 but believe that its purpose could be best accomplished by legislation along the lines of the Defense Production Act authorities but in a separate Act. We are exploring these mechanisms with the Department of Commerce, General Services Administration, and other Federal agencies and will report back to the Committee shortly.

We are advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the program of the President.

Sincerely,

RUSSELL E. TRAIN,
Administrator.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 29, 1974.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of December 17, 1973, requests the views of the General Services Administration on H.R. 11876, 93rd

Congress, a bill "To amend the Public Health Service Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for waste water treatment."

The General Services Administration (GSA) recognizes the potential urgency of the need for legislation to insure adequate supplies of chlorine and other chemicals used for the purification of water. The Director of the Office of Preparedness, GSA, has endorsed the need for standby legislation in this area in light of the severe threat to public health posed by the lack or inadequacy of treatment of public water supplies. Accordingly, GSA supports the concept of legislation providing standby authority to deal with the actual occurrence of a chlorine shortage emergency. However, we do not believe that legislation is needed that would require the institution now of mandatory allocation of chlorine or related chemicals.

Based on information supplied by the Environmental Protection Agency and the Department of Commerce, we feel that there is a significant probability that measures to insure proper chlorine distribution will be necessary during the coming months, although such need is by no means certain. Under these circumstances, the institution of a mandatory program at this time would be unnecessary and thus wasteful of Federal resources. Standby authority to meet any actual shortage or outage situations that may arise, however, seems imperative in view of the potentially serious public health hazard involved and the need for immediate Federal action if a crisis develops.

In our view, it is also important that any legislation developed to meet this potential threat to public health be designed to utilize the priorities and allocations mechanism currently in use for other materials. Also, since the coordination among Federal allocations programs is currently achieved through the Office of Preparedness within GSA, use of existing mechanisms would insure that chlorine allocation actions are fully coordinated with other mandatory Federal priorities and allocations programs. Creating a whole new set of arrangements for the allocation of chlorine alone, when existing arrangement could be used, does not appear practical or economical. Accordingly, we would propose that the objective of providing chlorine and other chemicals for purification of drinking water on a standby, emergency basis, be achieved either by amending Title I of the Defense Production Act of 1950, as amended, or by enactment of similar, but separate legislation.

These alternatives are now being considered by GSA and other concerned agencies. We will submit a further report shortly.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to your Committee.

Sincerely,

ALLAN G. KAUPINEN,
Assistant Administrator.

GENERAL COUNSEL,
DEPARTMENT OF COMMERCE,
Washington, D.C., February 14, 1974.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department with respect to H.R. 11876, a bill "To amend the Public Health Service Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for waste water treatment."

Since H.R. 11876 provides for mandatory institution of allocations of these materials, we are opposed to its enactment. Further, we believe it inappropriate to vest allocation authority in the Environmental Protection Agency, when this Department already has a priorities and allocations system in being for other materials.

This Department is aware of the difficulties that some municipalities have experienced in obtaining supplies of chlorine and other substances. We are monitoring the situation closely, and have already been instrumental in the following initiatives:

Direct contact with chlorine producers to determine what action they are prepared to take to provide chlorine for municipal use.

Collaboration with EPA and GSA in the determination and development of the role of Federal, local, and state governments with respect to this matter.

Interagency reviews of the subject.

As a matter of principle, we believe at this time that the primary vehicle for meeting requirements for chlorine and other substances necessary for water treatment and purification should continue to be through voluntary efforts in the private sector. Nevertheless, we recognize the voluntary efforts to correct maldistribution problems may ultimately prove inadequate to assure availability of chlorine supplies at the proper place and at the proper time. Accordingly, we would support Federal legislation which would provide standby authority to establish priorities and allocations for appropriate distribution of these materials, if needed.

The compelling considerations which may ultimately warrant government controls over the distribution of chemicals for water treatment include the following:

Pure drinking water is essential to the public.

The public is generally dependent on municipal supplies of drinking water.

Unsafe drinking water could lead to local outbreaks of communicable diseases which could spread rapidly to become of nationwide importance.

Continuous chlorination is the only present, practical method to insure supplying safe drinking water.

Interruption of chlorination for more than a few hours could lead to a breakdown in the integrity of the drinking water system.

Establishing a stockpile of chlorine is not practical because of the nature of the material.

The current extreme shortage of chlorine is expected to be relieved by early 1975, at which time the free market should insure adequate supplies being available for water treatment.

Consequently, the Department of Commerce believes that the unique nature of the near term situation regarding supplies of safe drinking water requires that the government be in a position to take direct and prompt action to alleviate any crisis situations. While we are hopeful that voluntary actions will be effective, and while we intend to aggressively pursue all possible voluntary approaches, we believe the Executive Branch should have standby authority for mandatory allocation at such time as it may be required. We are exploring various alternatives to determine which would be the most effective to achieve this and will submit appropriate recommendations to you shortly.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

PUBLIC HEALTH SERVICE ACT

TITLE I—SHORT TITLE AND DEFINITIONS

* * * * * * *

DEFINITIONS

SEC. 2. When used in this Act—

(a) * * *

* * * * * * *

(f) The term "State" means a State or the District of Columbia, Puerto Rico, or the Virgin Islands, except that *(1)* as used in section 361(d) such term means a State, or the District of Columbia, *and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands*

* * * * * * *

TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

PART A—DEFINITIONS

DEFINITIONS

SEC. 1401. For purposes of this title:

(1) The term "primary drinking water regulation" means a regulation which—

(A) applies to public water systems;

(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

(C) specifies for each such contaminant either—

(i) a maximum contaminant level, if, in the judgement of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

(2) The term "secondary drinking water regulation" means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

(3) The term "maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

(4) The term "public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A)

90-224 O - 82 - 38

any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(5) The term "supplier of water" means any person who owns or operates a public water system.

(6) The term "contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(7) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(8) The term "Agency" means the Environmental Protection Agency.

(9) The term "Council" means the National Drinking Water Advisory Council established under section 1446.

(10) The term "municipality" means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

(11) The term "Federal agency" means any department, agency, or instrumentality of the United States.

(12) The term "person" means an individual, corporation, company, association, partnership, State, or municipality.

Part B—Public Water Systems

COVERAGE

Sec. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; and

(3) which does not sell water to any person.

NATIONAL DRINKING WATER REGULATIONS

Sec. 1412. (a)(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than one year after the date of their promulgation.

(b)(1)(A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

(2) On the date the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1)(B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (2) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (2) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the

term "feasible" means feasible with the use of technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 5 years.

(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect not later than 1 year after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

(e)(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

(3) In developing its proposals for recommended maximum contaminant levels under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate

and explain (separately and in composite) the impact of the following considerations:

(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

(C) Synergistic effects resulting from exposure to or interaction by two ar more contaminants.

(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (2) of this subsection.

STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

(1) has adopted drinking water regulations which (A) during the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meets the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than in conditions under, and the manner in, which

variances and exemptions may be granted under sections 1415 and 1416.

(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) determine that he is unable to make such determination and notify the applicant in writing of the reasons for his inability to make such determination.

FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

SEC. 1414. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

(A) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

(B) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto, he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such findings and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system

into compliance and for any failure to take steps to bring the system into compliance). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B) (i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time the State abused its discretion in carrying out primary enforcement responsibility for public water systems,

the Administrator may commence a civil action under subsection (b).

(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b).

(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule, control measure, or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

(1) authorized under paragraph (1) or (2) of subsection (a), or

(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

(c) Each owner or operator of a public water system shall give notice to the persons served by it—

(1) of any failure on the part of the public water system to—

(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

(B) perform monitoring required by section 1445(a), and

(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

(A) the existence of such variance or exemption, and

(B) any failure to comply with the requirements of any schedule or control measure prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), and shall be furnished to the other communications media serving such area. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

VARIANCES

SEC. 1415. (a) Notiwthstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, becuse of characteristics of the raw water resources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance granted under this subparagraph shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.

(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a rational primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the healh of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance.

(D)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or monitoring or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—

(I) identify each public water system with respect to which the finding was made,

(II) specify the reasons for the finding, and

(III) as appropriate, propose revocations of specific variances or propose revised control measures or monitoring or other monitoring or other requirements for specific public water systems granted variances, or both.

(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised variance control measures or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a control measure or other requirement for a variance and if before a revocation of such variance or a revision of such control measure or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or control measure or other requirement which the Administrator determines makes his finding inapplicable to such variance or control measure or other requirement, the Administrator shall rescind the application of his finding to that variance or control measure or other requirement. No variance revocation or revised control measure or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised control measure or other requirement was proposed.

(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

(b) Any control measure or other requirement on which a variance granted under this section is conditioned may be enforced under section 1414 as if such control measure was part of a national primary drinking water regulation.

(c) For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking

water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Adminstrator which leads to a reduction in the level of such containment sufficient to satisfy the requirements of section 1412(b)(3).

EXEMPTIONS

SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement, and

(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement.

(b)(1) If a State grants a public water system an exemption under subsection (a), it shall prescribe, within one year of the date the exemption is granted, a schedule for—

(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, 1981; and

(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for

a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption and document the need for the exemption.

(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title.

(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—

(i) identify each exempt public water system with respect to which the finding was made,

(ii) specify the reasons for the finding, and

(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate)

such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

(e) For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

Part C—Protection of Underground Sources of Drinking Water

REGULATIONS FOR STATE PROGRAMS

Sec. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regula-

tions shall require that a State program, in order to be approved under section 1422—

(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers underground water sources;

(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

(D) shall apply (i) as prescribed by section 1447(b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

(2) Regulations for State underground injection control programs may not prescribe requirements which interfere with or impede—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)), but after reasonable notice and public hearing, one or more tem-

porary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State has found, on the record of such hearing—

(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

(d) For purposes of this part:

(1) The term "underground injection" means the subsurface emplacement of fluids by well injection.

(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

(ii) will keep such records and make such reports with respect to its activities under clause (i) as the Administrator may require by regulation.

(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2) or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after such disapproval or expiration date (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meet such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

(d) For purposes of this title, the term "applicable underground injection control program" with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement

(including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B) (i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b) (1).

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b) (1).

(b) (1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a) (1).

(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources, shall be subject to a civil penalty of not more than $5,000 per day. In addition, if such violation or failure to comply is willful, such person shall be punished by a fine of not more than $5,000 per day.

(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

INTERIM REGULATION OF UNDERGROUND INJECTIONS

SEC. 1424. (a) (1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period

90-224 O - 82 - 39

beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one acquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

(b)(1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the acquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the acquifer of the designated area in which the well is located so as to create a significant hazard to public health.

(c) Any person who operates a new underground injection well in violation of subsection (b) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs. In addition, if such violation is willful, such person shall be punished by a fine of not more than $5,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

(d) For purposes of this section, the term "new underground injection well" means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

Part D—Emergency Powers

EMERGENCY POWERS

Sec. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such action may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) shall be punished by a fine of not more than $5,000 per day of violation.

Part E—General Provisions

ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

Sec. 1441. (a) If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a "certification of need") that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

(b)(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing

each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

(3) Within 30 days after—

(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

(c) (1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay for failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce the provision of such order.

(f) No certification of need or order issued under this section may remain in effect—

(1) for more than one year, or

(2) after June 30, 1977,

whichever occurs first.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

(B) improved methods to identify and measure the health effects of contaminants in drinking water;

(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

(E) improved methods of protecting underground water sources of public water systems from contamination.

(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

(4) The Administrator shall conduct a survey and study of—

(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

(b) In carrying out this title, the Administrator is authorized to—

(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d))).

(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

GRANTS FOR STATE PROGRAMS

SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed primary enforcement responsibility for public water systems within the State.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. To the extent the applicable appropriation permits, the allotment of a State for any fiscal year shall not be less than $50,000.

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

(b)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within two years from the date of such grant an underground water source protection, and

(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed primary enforcement responsibility for underground water sources within the State.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

(5) For the purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

(c) For purposes of this section:

(1) The term "public water system supervision program" means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

(2) The term "underground water source protection program" means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii).

SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or im-

proved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

(b) Grants made by the Administrator under this section shall be subject to the following limitations:

(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $10,000,000. The Administrator shall prescribe regulations to carry out his subsection.

RECORDS AND INSPECTIONS

SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued

under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

(b) The Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or person in charge of any of the property of such supplier or other person), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than $5,000.

(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the applicant relates (unless the public health or safety requires an earlier release of such information).

(2) Any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term "information required under this section" means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

(e) For purposes of this section, (1) the term "grantee" means any person who applies for or received financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term "person" includes a Federal agency.

NATIONAL DRINKING WATER ADVISORY COUNCIL

SEC. 1446. (a)(1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) the term of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel-time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

FEDERAL AGENCIES

SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412.

(b)(1) Each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

(2) The Administrator shall waive compliance with paragraph (1) of this subsection upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted

and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

GENERAL PROVISIONS

SEC. 1448. (a)(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

(d)(1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

(h) Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to Congress its comments respecting any such report.

FEDERAL FOOD, DRUG, AND COSMETIC ACT

* * * * * * *

CHAPTER IV—FOOD

* * * * * * *

BOTTLED DRINKING WATER STANDARDS

SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.

* * * * * * *

[From the Congressional Record, Dec. 3, 1974]

House Debate on S. 433

Mr. Staggers. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 433) to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

SHORT TITLE

Section 1. This Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

Sec. 2. (a) The Public Health Service Act is amended by inserting after title XIII the following new title:

"TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

"Part A—Definitions

"DEFINITIONS

"Sec. 1401. For purposes of this title:

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

"(3) The term 'maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term

includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"(5) The term 'supplier of water' means any person who owns or operates a public water system.

"(6) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(7) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) The term 'Agency' means the Environmental Protection Agency.

"(9) The term 'Council' means the National Drinking Water Advisory Council established under section 1446.

"(10) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

"(11) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, or municipality.

"PART B—PUBLIC WATER SYSTEMS

"COVERAGE

"SEC. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; and

"(3) which does not sell water to any person; and

"(4) which is not a carrier which conveys passengers in interstate commerce.

"NATIONAL DRINKING WATER REGULATIONS

"SEC. 1412. (a)(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

"(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect eighteen months after the date of their promulgation.

"(b)(1)(A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

"(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

"(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In

addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

"(2) On the date the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

"(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1)(B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (1)(B) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (1)(B) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term 'feasible' means feasible with the use of the best technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

"(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 3 years.

"(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect eighteen months after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

"(6) No national primary drinking water regulations may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

"(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

"(e)(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a state-

ment of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

"(3) In developing its proposals for recommended maximum contaminant levels under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

"(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

"(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

"(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

"(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

"(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

"(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

"(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out and to make the report directed by paragraph (2) of this subsection.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

"(1) has adopted drinking water regulations which (A) in the case of the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) in the case of the period after such effective date are not less stringent than the interim and revised national primary drinking water regulations in effect under such section;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and

"(4) if it permits variances or exemptions, or both, from the requiremnts of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416; and

"(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

"(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State

may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination *is made, the period* for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

"(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and notify the applicant in writing of the reasons for his denial.

"FAILURE BY STATE TO ASSUME ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1414. (a)(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time.

"(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

"(i) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to subparagraph (A); and

"(ii)(α) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence; or

"(β) the State submits such report within such period but the Administrator, after considering the report, determines that the State abused its discretion in carrying out primary enforcement responsibility for public water systems by both—

"(I) failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time, and

"(II) failing to assure by such day the provision through alternative means of safe drinking water by the earliest feasible time; the Administrator may commence a civil action under subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

"(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule or other requirement imposed pursuant thereto.

he may commence a civil action under subsection (b).

"(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

"(1) authorized under paragraph (1) or (2) of subsection (a), or

"(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter, in an action brought under this subsection, such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water suppiles; and, if the court determines that there has been a willful violation of the regulation of schedule or other requirement with respect to which the action was brought, the court may, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, impose on the violator a civil penalty of not to exceed $5,000 for each day in which such violation occurs.

"(c) Each owner or operator of a public water system shall give notice to the persons served by it—

"(1) of any failure on the part of the public water system to—

"(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

"(B) perform monitoring required by section 1445(a), and

"(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(A) the existence of such variance or exemption, and

"(B) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), and shall be furnished to the other communications media serving such area, and shall be furnished to the communications media as soon as practicable after the discovery of the violation with respect to which the notice is required. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

"(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law of regulation respecting drinking water regulations or public water systems, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of

gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

"(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

"(2) the means for the maximum feasible protection of the public health during any period in which such system is not incompliance with a national primary drinking water regulation or requirement applicable to a variance or exemption. On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

"VARIANCES

"SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

"(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, canont meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the best technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph, the State shall prescribe within one year of the date the variance is granted, a schedule for—

"(i) compliance (including increments of progress) by the public water system with each contaminant level requirement with respect to which the variance was granted, and

"(ii) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subparagraph may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice. A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine).

"(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

"(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance (and in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

"(D) Each public water system's variance granted by a State under subparagraph (A) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to that subparagraph. The requirements of each schedule prescribed by a State pursuant to that subparagraph shall be enforceable by the State under its laws. Any requirement of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under subparagraph (G) or the schedule is revised by the Administrator under such subparagraph.

"(F) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of variances and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other information concerning new scientific matters bearings on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

"(G)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to prescribe schedules in accordance with subparagraph (A), the Administrator shall notify the State of his findings. In determining if a State has abused its direction in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variance were complied with. A notice under this clause shall—

"(I) identify each public water system with respect to which the finding was made,

"(II) specify the reasons for the findings, and

"(III) as appropriate, propose revocations of specific variances or propose revised schedules or other requirements for specific public water systems granted variances, or both.

"(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the findings for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised schedules or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a schedule or other requirement for a variance and if, before a revocation of such variance or a revision of such schedule or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or schedule or other requirement which the Administrator determines makes his finding inapplicable to such variances or schedule or other requirement, the Administrator shall rescind the application of his finding to that variance on schedule or other requirement. No variance revocation or revised schedule or other requirement may take effect before

the expiration of 90 days following the date of the notice in which the revocation or revised schedule or other requirement was proposed.

"(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

"(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

"(b) Any schedule or other requirement on which a variance granted under paragraph (1)(B) or (2) of subsection (a) is conditioned may be enforced under section 1414 as if such schedule or other requirement was part of a national primary drinking water regulation.

"(c) If an application for a variance under subsection (a) is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

"(d) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"EXEMPTIONS

"SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

"(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement, and

"(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement, and

"(3) the granting of the exemption will not result in an unreasonable risk to health.

"(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

"(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

"(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

"(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary dringing water regulations promulgated under section 1412(a), not later than January 1, 1981; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

"(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

"(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

"(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption (including the basis for the finding required by subsection (a)(3) before the exemption may be granted) and document the need for the exemption.

"(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

"(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. In determining if a State has abused its discretion in granting exemptions in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the exemptions and if the requirements applicable to the granting of the exemptions were complied with. A notice under this subparagraph shall—

"(i) identify each exempt public water system with respect to which the finding was made,

"(ii) specify the reasons for the finding, and

"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

"(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a

hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date of notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

"(e) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

"(g) If an application for an exemption under this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR STATE PROGRAMS

"SEC. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

"(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

"(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

"(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger

drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers drinking water sources;

"(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

"(D) shall apply (i) as prescribed by section 1447(b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

"(2) Regulations by the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for two secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

"(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

"(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

"(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)), but after reasonable notice and hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State finds, on the record of such hearing—

"(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

"(d) For purposes of this part:

"(1) The term 'underground injections' means the subsurface emplacement of fluids by well injection.

"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

"(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

"(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

"(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

"(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

"(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

"(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

"SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public

notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

"(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

"(b)(1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

"(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources (A) shall be subject to a civil penalty of not more than $5,000 for each day of such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (B), be fined not more than $10,000 for each day of such violation.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"INTERIM REGULATION OF UNDERGROUND INJECTIONS

"SEC. 1424. (a)(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

"(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

"(b)(1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

"(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

"(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

"(c) Any person who operates a new underground injection well in violation of subsection (b)(1) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs, or (2) if such violation is wilful, such person may, in lieu of the civil penalty authorized by clause (1), be fined not more than $10,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory junction) to enforce such subsection.

"(d) For purposes of this section, the term 'new underground injection well' means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

"PART D—EMERGENCY POWERS

"EMERGENCY POWERS

"SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. The action which the Administrator may take may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day in which such violation occurs or failure to comply continues.

"PART E—GENERAL PROVISIONS

"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

"SEC. 1441. (a) If any person who uses chlorine, activated carbon lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so, available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a 'certification of need') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

"(b)(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

"(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the findings with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

"(3) Within 30 days after—

"(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

"(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application, the Administrator shall take action either to issue or deny the issuance of a certification of need.

"(c)(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

"(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

"(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

"(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

"(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

"(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

"(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

"(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

"(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

"(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a temporary restraining order or preliminary or permanent injunction (including a mandatory injunction) to enforce the provision of such order.

"(f) No certification of need or order issued under this section may remain in effect—

"(1) for more than one year, or

"(2) after June 30, 1977,

whichever occurs first.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

"SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

"(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

"(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

"(4) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

"(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together wih such recommendations as he deems appropriate.

"(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

"(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

"(b) In carrying out this title, the Administrator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d))).

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR STATE PROGRAMS

"SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

"(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has

assumed and maintains primary enforcement responsibility for public water systems within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area,, number of public water systems, and other relevant factors. No State shall receiwe less than 1 per centum of the annual appropriation for grants under paragraph (1) : *Provided*, That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further*, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

"(b) (1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that State—

"(A) has established or will establish within two years from the date of such grant an underground water source protection, and

"(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

"(c) For purposes of this section :

"(1) The term 'public water system supervision program' means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

"(2) The term 'underground water source protection program' means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS ; GUARANTEED LOANS

"SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

"(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations:

"(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

"(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(4) Priority for grants under this section shall be given where there are known or potential health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

"(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot reasonably obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of any indebtedness guaranteed with respect to any system may not exceed $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

"RECORDS AND INSPECTIONS

"SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b)(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a national primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or person in charge of any of the property of such supplier or other person), is authorized to enter any establishment, facility, or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The

90-224 O - 82 - 41

Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

"(2) No entry may be made under the first sentence of paragraph (1) in an establishment, facility, or other property of a supplier of water or other person subject to a national primary drinking water regulation if the establishment, facility, or other property is located in a State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. No State agency which receives notice under this paragraph of an entry proposed to be made under paragraph (1) may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; and if a State agency so uses such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice under this paragraph.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) may be fined not more than $5,000.

"(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

"(2) Any information required under this section (A) may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this title or to committees of the Congress, or when relevant in any proceeding under this title, and (B) shall be disclosed to the extent it deals with the level of contaminants in drinking water. For purposes of this section the term 'information required under this section' means any papers, books, document, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term 'person' includes a Federal agency.

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1446. (a)(1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412, and each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(b) The Administrator shall waive compliance with subsection (a) upon request of the Secretary of Defense and upon a termination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

"JUDICIAL REVIEW

"SEC. 1448. (a) A petition for review of—

"(1) action of the Administrator in promulgating any national primary drinking water regulation under section 1412, any regulation under section 1413(b)(1), any regulation under section 1414(c), any regulation for State underground injection control programs under section 1421, or any general regulation for the administration of this title may be filed only in the United States Court of Appeals for the District of Columbia Circuit; and

"(2) action of the Administrator in promulgating any other regulation under this title, issuing any order under this title, or making any determination under this title may be filed only in the United States court of appeals for the appropriate circuit.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulations or issuance of the order with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

"(b) The United States district courts shall have jurisdiction of actions brought to review (1) the granting of, or the refusing to grant, a variance or exemption under section 1415 or 1416 or (2) the requirements of any schedule prescribed for a variance or exemption under such section or the failure to prescribe such a schedule. Such an action may only be brought upon a petition

for review filed with the court within the 45-day period beginning on the date the action sought to be reviewed is taken or, in the case of a petition to review the refusal to grant a variance or exemption or the failure to prescribe a schedule, within the 45-day period beginning on the date action is required to be taken on the variance, exemption, or schedule, as the case may be. A petition for such review may be filed after the expiration of such period if the petition is based solely on grounds arising after the expiration of such period. Action with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

"(c) In any judicial proceeding in which review is sought of a determination under this title required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as to the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"CITIZEN'S CIVIL ACTION

"SEC. 1449. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement prescribed by or under this title, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator.

No action may be brought under paragraph (1) against a public water system for a violation of a requirement prescribed by or under this title which occurred within the 27-month period beginning on the first day of the month in which this title is enacted. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce in an action brought under this subsection any requirement prescribed by or under this title or to order the Administrator to perform an act or duty described in paragraph (2), as the case may be.

"(b) No civil action may be commenced—

"(1) under subsection (a)(1) of this section respecting violation of a requirement prescribed by or under this title—

"(A) prior to sixty days after the plaintiff has given notice of such violation (i) to the Administrator, (ii) to any alleged violator of such requirement and (iii) to the State in which the violation occurs, or

"(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice required by this subsection shall be given in such manner as the Administrator shall prescribe by regulation. No person may commence a civil action under subsection (a) to require a State to prescribe a schedule under section 1415 or 1416 for a variance or exemption, unless such person shows to the satisfaction of the court that the State has in a substantial number of cases failed to prescribe such schedules.

"(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines

such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class or persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this title or to seek any other relief.

"GENERAL PROVISIONS

"SEC. 1450. (a)(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

"(d)(1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

"(h) Not later than April 1 of each year, the Administrator shall submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to such committees of Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to such committees of Congress its comments respecting any such report.

"(i)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this title or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

"(B) testified or is about to testify in any such proceeding, or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

"(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in the subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title."

(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to

conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977.

BOTTLED DRINKING WATER

SEC. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record at this point.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Speaker, reserving the right to object, I wonder if the gentleman from West Virginia would give the House an explanation of this amendment.

Mr. STAGGERS. Mr. Speaker, I will be happy to do so.

The amendment the Senate has passed here establishes subject matter jurisdiction in the Federal district courts to entertain certain specified suits. However, the amendment states that for 27 months after enactment no suit may be filed under this provision against public water systems. That really is the main essence of the amendment, because under existing title 28 of the United States Code, citizens have the right to bring a suit at any time now.

Actually the amendment—I do not know whether they intended it this way—but it prohibits any suit being brought under **section 1449** for 27 months after enactment of this bill against any public water system.

Mr. GROSS. Is this the only Senate amendment to the bill?

Mr. STAGGERS. That is the only significant amendment.

Mr. GROSS. Mr. Speaker, I thank the gentleman for his explanation. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. KAZEN. Mr. Speaker, at the time that the so-called Safe Drinking Water Act was considered in the House, I voted against its passage and during the debate set forth the reasons for my opposing the bill. As you know, the measure went to the Senate where it was amended. However, none of those amendments corrected the bill so as to overcome my objections. I am, therefore, still opposed to the passage of this measure.

Mr. FISHER. Mr. Speaker, I desire to register my opposition to S. 433. I voted against it when it was previously approved in the House on November 19, and I am still opposed to it. After approval in the House, the bill went back to the Senate where it was amended. Those amendments do not satisfy the objections which prompted me to vote against the measure in November, and I am opposing the new version which is now before us.

The Senate amendment to the House amendments was concurred in.

A motion to reconsider was laid on the table.

[From the Congressional Record, Nov. 19, 1974]

HOUSE DEBATE ON H.R. 13002

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1423, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1423

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13002) to amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. It shall also be in order to consider the text of the bill H.R. 16760 if offered as an amendment in the nature of a substitute for the said committee amendment. At the conclusion of the consideration of H.R. 13002 for amendment, the Commitee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 13002, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 433, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 13002 as passed by the House.

The SPEAKER pro tempore. The gentleman from Florida (Mr. Pepper) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1423 provides for an open rule with 1 hour of general debate on H.R. 13002, a bill to amend the Public Health Service Act to assure that the public is provided with safe drinking water.

House Resolution 1423 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule. House Resolution 1423 also provides that it shall be in order to consider the text of the bill H.R. 16760 if offered as an amendment in the nature of a substitute for the committee amendment printed in the bill.

House Resolution 1423 also provides that after the passage of H.R. 13002, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 433, and it shall then be in order in the House to move to strike out all after the enacting clause of S. 433, and insert in lieu thereof the provisions contained in H.R. 13002 as passed by the House.

H.R. 13002 requires the Administrator of the Environmental Protection Agency to prescribe national primary drinking water regulations for contaminants which may adversely affect the public health and it provides that such regulations are to apply to public water systems and are to protect health to the maximum extent feasible. H.R. 13002 authorizes the Administrator to enforce national primary drinking water regulations only if a State fails to assure timely compliance with at least equally stringent requirements. However, the States can grant an exemption variance to a water system for up to 9 years for compliance.

H.R. 13002 also provides for Federal grants to assist State surveillance and enforcement programs under the bill and establishes Federal-State programs to protect underground sources of drinking water.

Mr. Speaker, I urge the adoption of House Resolution 1423 in order that we may discuss, debate, and pass H.R. 13002.

Mr. LATTA. Mr. Speaker, this is an extremely important piece of legislation. I think the Members in this Chamber should take note of the legislation to be considered, if this rule is adopted, as it will affect the water systems of every community and every city in this Nation. That is important legislation, and it is nationwide in scope.

I believe this bill points up the pressing need for a change in the rules of the House. As every Member can attest, in order to pass certain bills they are given glorified titles. All too frequently this occurs, and the legislation now to be considered is one of these bills.

Mr. Speaker, what Member could possibly vote against a piece of legislation entitled "The Safe Drinking Water Act"? To be opposed to such legislation, I suppose one would have to be for unsafe drinking water.

I think, Mr. Speaker, when the 94th Congress comes into being, we ought to consider changing the rules of this House so that we will have bills designated by number only. This would force Members to read

more than the glorified title before making a decision on the bill. The bill under consideration today labeled the "Safe Drinking Water Act" is a good reason to make a change in the rules.

What am I talking about? I am talking about legislation that would give the Administrator of EPA broad authority to certify or not certify the water-treatment facilities of every city or municipality in this Nation after first adopting its own standards for making such certifications. If they did not adhere to those standards, EPA could go into court and get a judgment against them.

Mr. Speaker, the question in my mind is how are communities without the bonding base and without help from the State and the Federal Government, going to get water when EPA comes in and shuts them down?

That is what we are talking about, and the authority is all contained in this legislation. Apparently the House is not interested in really delving into the provisions of this bill. It scares me to think that legislation of this scope is about to be passed because it has an attractive title and the House is unwilling to really examine its contents.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be glad to yield to the gentleman from Illinois.

Mr. CRANE. I thank my distinguished colleague for yielding.

I applaud the remarks of the gentleman from Ohio.

I too feel that sensitivity to truth in labeling that goes with so much legislation that comes before this body for consideration.

This is surely a classic example of one, in fact, that I used during this past campaign to dramatize some of the problems that those of us who are in a position to do so are able to say no to.

We in the Illinois delegation on both sides of the aisle received a telegram on this piece of legislation from Richard Priceland, who is the director of the Illinois Environmental Protection Agency.

He stated in that telegram that while he and his agency and the Illinois Public Health Authority applaud the theoretical aims of this legislation, they nevertheless urged all Illinois Representatives to vote against it because it was inflexible in its implementation, it preempts State law, and third, it greatly added to local and State costs.

Therefore, I would only urge all of my colleagues to join in the effort of the gentleman from Ohio (Mr. Latta) to defeat the rule on this bill.

Mr. LATTA. Mr. Speaker, I thank the gentleman for his contribution.

Just let me say that no one, as I pointed out earlier, can be against what is sought to be accomplished in this legislation. We are all for safe drinking water. The question is, how to acquire it. By passing a law requiring the adoption of standards which cannot be met by small communities? I think not?

Mr. MURPHY of Illinois. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. I would like to answer the gentleman from Illinois (Mr. Crane).

I have in my hand two amendments proposed by the Governor of the State of Illinois, who is in agreement with the basic philosophy of the Safe Drinking Water Act. The two amendments would have the State and Federal administrators work together, this is what Governor Walker wants, and on proper notice of any infraction, the Federal Administrator may come into any State for future action.

as long as the State and local authorities are notified of the alleged infraction in timely fashion.

I intend to offer these amendments later in the day, but I would like to say to my esteemed colleague, the gentleman from Illinois (Mr. Crane), that I did not receive a telegram to that effect. I know the Governor wants this bill passed, if these amendments are accepted.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. CRANE. The telegram came from Richard Priceland, who is the administrator of the Illinois Environmental Protection Agency. He is not the Governor. I would be happy to Xerox a copy of my telegram.

Mr. WIDNALL Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New Jersey.

(Mr. WIDNALL asked and was given permission to revise and extend his remarks.)

Mr. WIDNALL. Mr. Speaker, I would like to compliment the gentleman from Ohio (Mr. Latta) for bringing this to the attention of the House, and for making some very sound and cogent observations as to the general practices that will take place.

I will never forget the number of sins that were committed in the name of the war against poverty. Who could vote against the war on poverty? If one did he would be earmarked as being the most unrepresentative of persons, and as one of who did not care about the poor people. But, at the same time, great bureaucracies were built up. All kinds of projects were approved by the Congress in the regular order of business just because it was labeled as part of the war on poverty.

But in reference to this legislation, let me ask what happens in a situation like in the town I live in that has nothing but artesian wells, and we have the purest drinking water in the entire State, and I can just see what will happen if this is enacted into law; that we will have to have chlorinated water, and will have to have all kinds of other things. I object to Federal control such as the EPA and I think it would be, in the end, a very harmful piece of legislation if we pass this. So I will vote against the rule.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I am wondering what would happen in some of the small communities in this country when the EPA comes in and says, "Your water is not safe under our guidelines, and you are going to have to upgrade your water plant in this community." But say that that community has already used up all of its bonding authority, and does not have the money to be able to upgrade its water plant: what do the people in that community do?

Mr. LATTA. Let me answer that by saying to the gentleman from Texas that I do not have the answer. That is my objection. May I say that I raised this objection before the Committee on Rules, and nobody is, of course, against the purpose of this bill, but the real question is that, like in the community the gentleman from Texas has referred to, how can that community come up with the money to meet the standards that some EPA directive might set forth?

I have a lot of small communities in my district that have been after funds from the Federal Government and from the State government for years, because they do not have the necessary borrowing authority,

and therefore they cannot move forward with their plant facilities they need.

If we pass this type of legislation on them will we shut down all the wells that are now giving them some water?

I do not know the answer. I will be happy to yield to anybody from the committee if they have the answer to that question. I think we ought to have the answer to it before we proceed.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, the gentleman from Ohio will recall that a couple of years ago we gave EPA the authority to set standards, and we told them to set strict standards in the Water Quality Act. But at the same time we appropriated the money with which these cities were going to be helped to construct their sewer plants. However, the Executive impounded that money, but the standards were not lowered. Now these communities are faced with high sewer disposal standards, and they are not able to improve their facilities, they have no money with which to do this. And the EPA has come up with a regulation that says that, regardless of even an act of God, it will not clear the superintendent of that plant from liability because he cannot comply with the EPA standards.

Mr. LATTA. I thank the gentleman from Texas for his contribution.

Let me say, Mr. Speaker, that the information I have had is that the administration is opposed to this legislation. I would like to yield to the chief sponsor of the legislation, the gentleman from Florida (Mr. Rogers) so the gentleman can advise us whether it is true that some corrective amendments are going to be proposed and, if so, what these amendments will attempt to do?

Mr. ROGERS. May I say to the gentleman that it is my understanding that if some amendments to be offered by the gentleman from Illinois are adopted, the Governor says he will strongly support the bill. There may be various other amendments that Members will offer. I do not know all of the amendments that may be offered, but I will say to the gentleman that I am sure that after the debate, people will be convinced that many of the things that have been said simply are not true. This is a significant bill for America. It will also give control to the States, to the local areas, not to EPA.

We have carefully designed this bill. It has been changed greatly from the bill that was first introduced. I think the gentleman will be very pleased after we explain the provisions in general debate.

Mr. LATTA. There is one further question I should like specifically to ask the gentleman, and that is this: Is the gentleman, as chairman of the subcommittee, going along with some sort of funding amendment to this bill to help these communities when the EPA says "We are going to close your water facilities"?

Mr. ROGERS. No, the bill does not provide that at all, because it has a mechanism whereby the States make that determination, not the EPA.

Furthermore, I thought the gentleman was opposed to spending a lot of money, and we did not think now was the time to authorize substantial sums of money. We thought instead that we should authorize EPA to set standards and afford the States and public water systems a reasonable time to implement them, taking costs into consideration. I would think the gentleman would be happy to support it.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Is this known as a Clean Water Act?

Mr. LATTA. A Safe Drinking Water Act.

Mr. GROSS. Now that the Tidal Basin is being used for drinking purposes, would this legislation apply to that situation; does the gentleman know?

Mr. LATTA. I could not answer that question.

Mr. GROSS. I thank the gentleman.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time. I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill—H.R. 13002—to amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13002, with Mr. Nichols in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. Staggers) will be recognized for 30 minutes and the gentleman from Kentucky (Mr. Carter) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, first I should like to say that this bill is not misnamed. I do not know whether the gentleman from Iowa is in the Chamber or not, but this does mean safe drinking water for the people of America. It is named exactly what we intended it to be. It is intended to bring safe drinking water to everyone. At a time when there is great concern about safe drinking water and about there being some ingredients in the water now that are causing cancer. I think it is very appropriate that this bill comes up at this time.

The intended purpose is to prevent waterborne disease outbreaks and chemical contamination which has occurred more and more in recent years. From 1961 to 1970 there were 130 outbreaks of disease or poisoning which were proven to be caused by unsafe drinking water. There were over 46,000 illnesses and there were 20 deaths which re-

sulted. One major example of such an outbreak occurred in Riverside, Calif., in 1965.

As the people of our Nation travel more and more across this country they have a right to expect safe drinking water wherever they go.

I think in a country as great as America is and as rich as America is the people certainly ought to be able to obtain safe drinking water. Our citizens when they are traveling abroad know that they may not always be able to get safe drinking water. But certainly in this land of ours we have a right to expect safe drinking water.

The legislation emphasizes this need and the need for research and control of water contamination. Research has shown that 66 possible cancer causing agents have been found in the drinking water in New Orleans and Cincinnati. A Naval Research Laboratory study shows many of these same possible cancer causing organic agents have been found in the Washington drinking water. This water is water we are drinking every day.

If there is anyone who does not want safe drinking water in Washington, I do not know what kind of person he is. And certainly if he wants it for himself he ought to want it for the rest of our country.

There is also an asbestos contamination problem which has appeared as a national problem. In Vermont, Wyoming, and California we have found asbestos-like particles in the drinking water. This problem is not isolated to the communities of Lake Superior or those surrounding areas.

The bill H.R. 13002 is intended to accelerate and strengthen the Nation's efforts to insure safe drinking water for all of our people and not just those in Washington, D.C.

In general H.R. 13002 would authorize the EPA to prescribe nationwide drinking water regulations to protect the public health to the maximum extent feasible. States are given primary responsibility for enforcement of these regulations. The States may grant up to 9 years delay in the dates for compliance considering the State and local ability to raise the necessary funds.

In addition the bill authorizes assistance to States to carry out water surveillance programs. It also will aid research in how to supply safe water at less expense. About half of the money that is involved will be spent for research.

Several erroneous statements have been made about the bill. One is that a water supply could just be closed down and an area would be left without any source of water to drink. This is not true. According to the language in the bill if an enforcement action is brought, the court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

From some of the earlier debate, it was said that EPA could come in and just close down the water supply and the area would have no water.

Now, this is not true. The court may only order a system to close down if adequate, safe alternative water supplies are available.

The State has the primary responsibility for enforcement of the program. Of course, the Federal Government sets up minimum standards so that nationwide protection will be afforded.

I think that America deserves this and needs it. We are a Nation on wheels, traveling all over the country, and we want to know when we go into communities that they have safe drinking water.

This bill is not aimed at single-family wells. The bill is aimed only at those who have water for sale and have at least 15 connections or supplies at least 25 different people. It has nothing to do with those that have cisterns and have drinking water from that or those who have wells that drink from springs and have their own water supply. It is only those that have water for sale that are subject to the bill. If they are going to sell it, they ought to make it safe for people to drink. That is the way we felt about it in the committee. I do not think we can name the bill any differently than the Safe Drinking Water Act.

Mr. Chairman, I reserve the balance of my time.

Mr. CARTER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. Nelsen).

Mr. NELSEN. Mr. Chairman, this bill was in our committee for a long time. Many of us were concerned that perhaps Federal authorities would be given too much muscle. Some of us were concerned because we have seen in other cases where some programs that we enacted into law reached out too far, giving a group of bureaucrats too much authority, so we proceeded very cautiously on this bill.

One member of our committee was concerned, very concerned, about the local communities not being able to finance some of these things that might be demanded of them and that the language in the original bill was going too far. I think a lot of the feeling about this legislation right now is because of that first impression. But we gradually toned it down and brought the States into the picture. We provided for Federal standards, gave the States a little money to implement the standards, and required the States to make examinations in their areas. In the event that finally nothing was done and the water supplies were in bad shape, then there could be a hearing. There could be enforcement process by EPA, but only after a proper hearing before local authorities, not a hearing in Washington, but at home with the grass roots represented.

I personally was one of the very cautious members of the committee. We tried to recognize the fact that certainly there must be some way that the people can be assured of clean, safe drinking water; but on the other hand, not giving a Federal bureau the authority to go in and with one fell swoop say you must do this or that; so I want to say that in my judgment this is a well-considered piece of legislation.

It carefully protects the rights of the States. It gives the local municipalities all the protection and hearing process that they must have and should have. I believe this is a good piece of legislation, and moves in the right direction.

I have discussed this with the chairman of our subcommittee and suggested that if there is any area in this bill where we may have gone too strong, let us find out about it and let us change it if that is necessary. I would say to the Members of this House that we wanted a bill of standards, a bill of State authority, a bill where we would gradually move toward the objective of safe drinking water.

There is time after a 7-year period, a 9-year period, where we give them plenty of opportunity to comply. Certainly, if the people of a community find out after examination that their water supply endangers their health, they are going to want to change it themselves. We want to give them, in the local process, plenty of time to make that decision and move in the direction this bill requires.

Mr. STAGGERS. Mr. Chairman, I yield 7 minutes to the gentleman from Florida (Mr. Rogers), chairman of the subcommittee.

Mr. ROGERS. Mr. Chairman, I thank the gentleman from West Virginia for yielding to me.

Mr. Chairman, I rise in support of H.R. 13002, the Safe Drinking Water Act of 1974, which would assure that the water supply systems serving the American public meet minimum national standards for the protection of the public health.

This bill is the end result of long and careful deliberation by the Subcommittee on Public Health and Environment and has the bipartisan support of the members of the subcommittee. Consideration of safe drinking water legislation began in the 92d Congress with two separate sets of hearings, followed by hearings early in the 93d Congress and extensive subcommittee and full committee markups. The measure before the House today represents the culmination of these efforts.

Mr. Chairman, briefly, this bill would do five things: First, it would require the EPA to prescribe national primary drinking water regulations which would apply to public water systems for contaminants which may adversely affect the public health. Such regulations would include maximum contaminant levels, if feasible to monitor the level of the contaminant, or treatment technique requirements, if not feasible to monitor contaminant levels, and criteria and procedures to assure compliance with the regulations. **[Sec. 1412]**

Second, it would authorize any State which adopts standards at least as stringent as the Federal standards and can demonstrate adequate surveillance and enforcement procedures to have primary enforcement responsibility over compliance by public water systems within the State with those standards. Such States would also have the authority to grant certain variances from the national standards, extend the time for compliance by any public water system and establish compliance schedules for public water systems within the State. Federal grants and loan guarantees would be available to assist State surveillance and enforcement programs. **[Sec. 1413]**

Third, it would authorize Federal authorities to enforce national primary drinking water regulations and grant variances and exemptions in those States which fail to adopt and implement adequate standards and enforcement measures. **[Secs. 1415, 1416]**

Fourth, it would establish Federal-State programs to protect underground sources of drinking water from contamination. **[Sec. 1421]**

Fifth, it would also provide for emergency allocation of chlorine—or other water treatment substances—to public water systems. **[Sec. 1441]**

Mr. Chairman, during our consideration of drinking water legislation, it became vividly apparent that present legislative authority and present Federal, State, and local activities are inadequate to assure that

the water supplied to the American public is safe to drink. Present Federal authority applies only to contaminants which may cause or carry communicable disease and not to those contaminants which could cause chemical poisoning or noncommunicable diseases. During the 10-year period between 1961–71, there were 130 outbreaks of disease or poisoning attributable to drinking water, resulting in 46,374 illnesses and 20 deaths. These figures do not include those incidents not reported or not proven as ultimately waterborne.

A recent HEW survey of 969 water systems across the country established the urgent need for this legislation. The study found that 36 percent of the 2,600 individual water samples contained contaminants at levels exceeding current Federal levels, 56 percent of the systems evidenced physical deficiencies, 67 percent of the plant operators were inadequately trained, and in 50 percent of the systems surveyed, plant officials did not remember when, if ever, a State or local health department had last inspected the system.

Last year alone there were at least 22 waterborne outbreaks in 12 States and nearly 700 people on a cruise liner were struck by gastric disorders because of drinking water.

Included in these outbreaks were over 250 cases of infectious hepatitis in Alabama and Florida. Typhoid also struck through drinking water and sent nearly 250 people to the hospital.

And, of course, all of us are all too familiar with the recently released report on the New Orleans situation, which, of course, may end up being the most serious on record.

As you know, 66 organic chemicals have been found in that city's drinking water. Four of these elements are carcinogens. Many of the rest are suspect.

While this survey does not prove that ingestion of New Orleans' drinking water leads to cancer, the author of this report indicates that the chances of cancer mortality are much higher for those white males who reside in Louisiana parishes that draw their water from the Mississippi River than for those white males residing in over 50 adjoining parishes which draw their drinking water from other surface or ground sources.

EPA is now embarking on a nationwide survey. I have asked that they immediately survey discharges upstream from New Orleans to determine how these discharges can be halted.

But I fear that New Orleans is not an isolated incident. I fear we will find similar evidence in most areas surveyed by EPA. And I think that this will represent the evidence needed to move Federal and State and local governments into acting to better protect our drinking water.

Mr. Chairman, this measure would not establish a vast new Federal bureaucracy nor would it necessarily usurp the rightful role of the States to assure its citizens an adequate supply of safe drinking water. The Federal Government after consultation with the National Academy of Sciences shall establish minimum national primary drinking water standards which, if adopted by a State, shall be enforced by that State with leeway for variances and exemptions, and grants to assist the States in enforcing the standards.

I would also like to discuss the significant standard setting and enforcement provisions in the bill.

90-224 O - 82 - 42

A question has been raised whether under this bill the Administrator of EPA may set standards limiting asbestos and asbestos-like particles in drinking water. This question is particularly critical in light of the recent decision of the U.S. Court of Appeals for the Eighth Circuit in the case of United States against Reserve Mining Co. In my judgment, the subcommittee intended to permit the Administrator to regulate asbestos and particles with similar chemical, physical, or morphological properties. While the court's opinion indicated that the extent of the health hazard had not been proven for asbestos in drinking water, it did recognize that asbestos in drinking water does pose some unquantifiable risk to the public health. Section 1412 of the Safe Drinking Water Act does not require preponderant proof of a demonstrable health hazard as a precondition for standard setting; all it requires is a reasoned judgment by the Administrator that a contaminant may pose a threat to the public health.

A second question which has been raised is how it is possible to set maximum contaminant level regulations for contaminants, such as asbestos, when it is not possible to assess the significance of the health risk nor to determine what level or exposure is safe or unsafe. The task will be difficult, of course. But it is manageable. The Administrator will have to make two judgments. He will have to determine what the health goal—recommended maximum contaminant level—should be. If there is no known safe threshold, the recommended level should be set at zero. But this is not a requirement which is enforceable against public water systems. The binding requirement is the maximum contaminant level requirement. The maximum contaminant level is required to be set as close to the health goal as is feasible. Thus, the Administrator is directed to require the use of the best treatment technology or techniques which are generally available taking cost into account. Finally, it should be noted that if it is not technologically or economically feasible to monitor a contaminant—such as asbestos—the regulation under section 1412 is to specify required treatment techniques, instead of maximum contaminant levels.

The court's decision in Reserve Mining has prompted a third question, whether it is proper to resolve all uncertainties in favor of public health where substantial economic costs would be imposed to meet standards of questionable necessity. I think this question must be answered after a careful reading of the court's opinion. The court did not say that resolving uncertainties in favor of health protection is impermissible. Rather it said:

> . . . the district court's determination to resolve all doubts in favor of health safety represents a legislative policy judgment, not a judicial one.

Whatever Congress intent was in passing the Refuse Act, I have no doubt that the subcommittee and the committee have made just such a legislative policy judgment in the Safe Drinking Water Act. Under this act, cost is to be taken into account only in determining how close to the recommended maximum contaminant level is feasible and in granting exemptions. Cost is not to be considered in determining whether to regulate any contaminant under section 1412, in setting recommended maximum contaminant levels, or in enforcing requirements under section 1412.

This construction of H.R. 13002 would apply to any of the contaminants which are being considered for regulation under this bill. We must recognize that there now exists very little evidence on the health effects of contaminants in drinking water. What there is often inconclusive and inconsistent. But in my view, we cannot afford to wait 20 years for health effects research to be completed to begin controlling contaminants which there is some basis to believe endanger public health. If there are uncertainties, they must be resolved on the side of protection of health.

A fourth question which has been raised concerning H.R. 13002 and the Reserve Mining case is whether this bill differs substantially from the Federal Water Pollution Control Act insofar as the directions it gives to the courts in enforcement proceedings. It is important to note that the Federal Water Pollution Control Act specifically directs the courts, in framing appropriate relief in case of a discharge under that act, to consider the practicability, physical, and economic feasibility of securing abatement of the pollution, the public interest, and the equities involved in the case. In the Safe Drinking Water Act, however, the courts are directed to "enter such judgment as protection of the public health may require". **[Sec. 1414(b)]** The courts may consider the time it will take for any system—making all good faith efforts—to comply and the availability of alternative sources of drinking water. But the purpose of permitting consideration of these factors is to assure that the public health will be protected to the maximum extent feasible as soon as possible, without cutting any community off from all sources of drinking water. Traditional balancing of the equities is not intended, as evidenced by the change in the language of **section 1414(b)** from that which was contained in the enforcement section of H.R. 1059. Nor is it necessary for the Administrator to prove that any violation of the regulations has caused or is likely to cause specific adverse health effects. This is to be presumed by the court, unless the regulation is arbitrary and capricious or otherwise not in accordance with law.

I would like to point out to my colleagues in the House that this is a bill that has been considered for 4 years—4 years. It has not been lightly considered. As the distinguished ranking member of the subcommittee, the gentleman from Minnesota (Mr. Nelson) has pointed out, we have taken particular care in designing this bill to make sure that EPA is not given unlimited authority.

We have taken the necessary steps to place enforcement responsibility on the States. We have taken the additional safeguards of not allowing EPA the authority to issue orders or fines. They must, before commencing a civil action, give notice to the States, and provide sufficient opportunity for the States to act. **[Sec. 1414]**

Furthermore, to prevent administrative autocracy by EPA, the bill requires the EPA to go to the courts and justify the actions taken for the public welfare. So, I think we have carefully crafted a bill that meets the objections of what Members are concerned with here—local control and local responsibility. Members on both sides of the aisle that worked on the bill in subcommittee have been concerned with this.

I think the matter perhaps is best summed up, if Members would permit me, by a paragraph from a letter by a Member who is not on our

subcommittee, but who has studied the matter very carefully from the Public Works Committee; a very distinguished Member, our distinguished colleague from Ohio (Mr. Harsha). He stated in his letter in support of this legislation which went to the Members today:

> A good feature of H.R. 13002 is that it assigns the primary enforcement role to the States, carefully restricting Federal authority. Unlike other recent environmental legislation, for example, H.R. 13002 denies EPA the authority to issue administrative enforcement orders. EPA is also denied the authority to review State-granted variances and exemptions to the standards on a case-by-case basis.

Incidentally, may I inject that the State may give these variances and exemptions for periods up to from 7 to 9 years. Think of that—9 years to get clean water. I do not know how much time one could expect.

The letter further states:

> And whereas the 1972 water pollution amendments made EPA's enforcement mandatory and gave EPA the right to intervene whenever a violation was detected, the drinking water bill does not make enforcement mandatory and permits enforcement only after notice to the state, waiting sixty days, and then finding that a state has abused its discretion by failing to take action to bring about timely compliance.
>
> These restrictions will help insure that flexibility to meet local conditions, and the talent and expertise that have been built up over the years in the State and local level, will be preserved.

I do want to say this. We had better look around. The Members would be amazed at what surveys I mentioned earlier are beginning to show about drinking water in this Nation. Many of us have just simply taken for granted that, because water is coming out of the faucet, everything is fine.

But the studies show everything is not fine. We must do research on health effects. We must insure that the technology is developed. To take a position, that we want to do nothing about the health of the people because maybe the EPA will do something repugnant to somebody is indefensible. The American people expect the Congress to do something about it, and the committee has responded.

All over this country the people are speaking through the columns in the papers—and you ought to read the letters in the papers—and the papers are editorializing. They say it is time to act, to take the necessary precautions.

We are simply laying the foundation for the health of the American people, and I predict if the Members study this bill, as I am sure they will, and as this bill progresses, this bill will be overwhelmingly passed, and the drinking water of the people of this Nation will be protected.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Ohio.

Mr. LATTA. As I stated earlier, no one can quarrel with the objectives of this legislation. Everyone is for safe drinking water, or whatever you want to call it. The question is, how are we going to help these small communities, and, as I mentioned, we have a lot of them in our district. We cannot get help from the State, we cannot get help from the Federal Government, and if this legislation goes on the books as it is presently written, they have this long period that the gentleman has indicated that is provided for in the legislation, and the court finally

comes through with a judgment and they close them down, where are they going to turn?

Mr. ROGERS. Let me say it is not a question of closing down. They are going to give technical advice and the State itself is going to get into the picture.

Mr. Chairman, this is the whole thrust of the legislation, to get the States and the local areas into the picture and to get the States to do proper planning and take action. For instance, when the State or or the water authority is putting out water with far beyond the normal bacteriological content, the bill requires them also to put out a notice to all their users.

What do we think the people of that community are going to say? They are going to say, "I do not want my children drinking that may have carcinogenic contaminants in it." People in the community will get together in order to do something about it.

Moreover, there are many things which can be done that do not cost anything: For instance, simply doing adequate testing and simply giving or receiving a little professional advice here and there. These actions could clear up many problems.

There will be some serious problems with implementation in some areas, and that is why we give the States some flexibility. As the gentleman knows, they can wait as long as 7 years as long as they demonstrate progress.

Mr. Chairman, I believe the gentleman will support this legislation if he looks at it carefully.

Mr. LATTA. Mr. Chairman, will the gentleman yield further?

Mr. ROGERS. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I would be happy to support the legislation if only we had the wherewithal. All we need is the funds.

Mr. ROGERS. We must do something to clear up the situation, and as I said, there are many things that can be done which do not cost very much money.

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support H.R. 13002, the Safe Drinking Water Act, for the following reasons: First, from 1961 to 1970, 46,374 cases of illnesses were attributed to impure drinking water; 20 cases of death were reported. Second, 2,600 individual tap water samples were checked out and of these, 36 percent showed contamination bacteriologically or chemically; 9 percent of these samples were so bacterially contaminated as to present serious health hazards; 30 percent of these samples had at least one chemical at above-normal levels indicating the water was of inferior quality.

Third, 11 percent of samples drawn from 94 systems using surface water exceeded the organic chemical limit of 200 parts per billion. Therefore, we see the necessity of purification and removal of dangerous chemicals.

It is necessary that bacterial and chemical contamination be eliminated or diminished to such an extent that health will not be endangered. In checks throughout the country on individuals who superintend purification of water, it was found that many lacked sufficient training and educational background.

It has also been found that in many cases sewage is injected directly into wells, contaminating the aquifers throughout large areas.

Since water used in interstate carriers has been regulated for many years by section 361 of the Public Health Service Act, it is also vital that encouragement, assistance, and direction be given to the States in securing water supplies free of dangerous bacterial and chemical contamination.

Of great importance is the elimination of viruses, particularly those causing hepatitis. Chemical contamination has increased over the past several years because of the increased use of herbicides, pesticides, and excessive amounts of fertilizers. In many rivers throughout the country, dangerous chemicals have been found going into the water supplies of some of our larger cities. In fact, the water has been found to contain nitrosamines, polycyclic aromatic hydrocarbons, and haloethers.

Methods of eliminating such carcinogens must be formed and instituted.

Assistance must be given to the States in training and education of those who purify water and who eliminate the dangerous chemicals from the water. While enforcement primarily is left in the hands of the State, in case of a dangerous outbreak, or in case the State fails to submit an adequate plan, this act permits the Environmental Protection Agency to step in, but only after the State has been given adequate opportunity to attain the required standards.

I strongly support this legislation.

Mr. CARTER. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. Hudnut).

Mr. HUDNUT. I thank the gentleman for yielding, Mr. Chairman.

I rise in support of this legislation and would like to make a general comment about it and then ask a question or two.

I think this amendment to the Public Health Service Act is properly called the Safe Drinking Water Act. EPA is provided with the resources to aid the States which have primary responsibility for insuring the quality of drinking water. I think the ecology thus far has made it clear that that primary responsibility is still vested in the States where I think it should be.

Presently, Federal authority to regulate water supplies is limited to the drinking water used by common carriers and pertains only to contaminant-causing communicable disease, but the subcommittee and the general committee has concluded that the present law is inadequate to give full assurance that the water supplies to the public are safe to drink.

By making the law comprehensive enough to insure the safety of all drinking water, by financial, technical and other assistance, and by aiding in the surveillance, monitoring, evaluation, and enforcement of high quality water standards, the amendment goes a long way toward the goal of safe drinking water for all Americans. In addition, there is provision for the uniform regulation of underground sources of drinking water that circulates across State borders, without regard to a particular State's regulation.

Shortly after I came to the Congress, I was privileged to attend a hearing conducted in Dade County Fla., with Congressman Rogers and

two other Congressmen from that locale, at which time we witnessed the devastating effects of a typhoid fever outbreak in the Dade County migrant labor camp upon the inhabitants of that camp. It was the worst typhoid outbreak in the United States in some 20 years.

It seems to me that this one illustration is sufficient to warrant that we pass this legislation. We must do everything possible to avoid similar occurrences in the future.

A great deal of concern has been expressed in general about this legislation insofar as it might give too much power to the EPA, but I think that these concerns have been allayed by the colloquy thus far, and I do not feel that it is a legitimate reason to vote down the bill to say that it centralizes too much power in the EPA and gives too much power to autocratic bureaucrats.

However, I would like to ask the chairman, if I may, a couple of other questions.

Some concern has been expressed to the effect that the cost that would have to be borne by local governmental agencies, to bring their standards up to the minimum Federal requirements, would be great and burdensome. Will it be possible for municipalities and local levels of government, particularly in poorer sections of the country, to comply with the standards as they will be set forth by this legislation and as they will be enforced by the EPA? What about the cost of this bill to the local community?

Mr. STAGGERS. I am sorry, but I did not quite get all of the questions of my friend, the gentleman from Indiana. However, I would like to answer the question as I understand it. We want to try to protect all of the small communities of the land since they are having many difficulties. We have tried to do that in the bill. In fact, we supply, over a period of 3 years, $163 million. About half of this will go into research for the whole United States. The other goes to the States to enable them to assist local communities to provide safe water supplies. Also, we have guaranteed loans in the bill for assisting needy small water systems to supply safe water. Therefore, this is an effort to try to help these communities which do not have the resources to help themselves right now.

Mr. HUDNUT. Therefore, in the opinion of the distinguished chairman of the committee, the economic impact upon poor communities will not be so enormous that we would be unwise to pass this bill?

Mr. STAGGERS. No.

If the gentleman will yield still further, let me say that we give each State up to 9 years in which to bring the systems into compliance.

Mr. HUDNUT. I thank the gentleman for his answer.

Might I ask the gentleman one more question: There has been a great deal of discussion recently about the effect of water treatment processes, specifically chlorination, on safe drinking water. There are a lot of people in the general public who are greatly concerned about recent reports that indicate that some of these treatment processes, like chlorination, might have the specific effect of carcinogenisity. They may produce cancer.

May I ask the gentleman from West Virginia whether the passage of this bill will be of help to us in finding out the correct answers to this question the public has?

Mr. STAGGERS. Mr. Chairman, that is also a good question that is presented by the gentleman from Indiana. Let me reply in answer to the question, I believe that the passage of this legislation would hurry the process under a national program to see that adequate research is undertaken.

May I also say that EPA is making a very intensified study of this subject so that the American people will know what can be done, and if emergency measures must be taken then they can be taken.

Mr. STEELMAN. Mr. Chairman, will the gentleman yield?

Mr. HUDNUT. I yield to the gentleman from Texas.

Mr. STEELMAN. Mr. Chairman, I thank the gentleman for yielding.

If I may have the attention of the subcommittee chairman, the gentleman from Florida (Mr. Rogers).

Earlier the gentleman said something about the research provisions in this bill, and I am interested in the section calling for the Administrator of the Environmental Protection Agency to conduct intensive research into the causes and effects of contaminants in drinking water, **section 1442,**

Recently a Federal appeals court in St. Louis, Mo., overturned a lower court's ruling to halt the dumping of 67,000 tons of taconite tailings per day into Lake Superior, Duluth, Minn.'s, source of drinking water. The tailings contain asbestos, which is linked with the high incidence of cancer suffered by miners who work with the substance, and inhale it. Scientists find it reasonable to believe that drinking water containing asbestos could cause cancer, too. Fibers found in Duluth's water were diagnosed to be asbestos by several researchers.

The court's decision was based on the fact the significant link between the water and its toxic effects were not a proven hazard. The Supreme Court upheld the higher court's ruling, so the dumping continues.

Recently surveys showed that asbestos-like fibers were discovered in the drinking water systems of cities such as Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle. If the fibers in these cities' drinking water prove to be asbestos, as in Duluth, then the danger of cancer exists there too, and the possibility of this is great, as asbestos fibers are found even in cement pipe that carry the processed water to consumers.

The necessity for deeper research into this area is obvious, as this ruling proves.

Could the gentleman explain what the Administrator will be requested to do concerning research under this bill into carcinogenic or cancer-causing contaminants in drinking water.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, first let me commend the gentleman from Texas about his concern, and I want to assure the gentleman that carcinogens are one of the type of contaminants that will be examined in this study.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. CARTER. Mr. Chairman, I yield 1 additional minute to the gentleman from Indiana.

Mr. ROGERS. If the gentleman will yield further, the general study described in **section 1442** of this bill covers the examination of both known and potential contaminants and certainly would include the specific case the gentleman has mentioned.

The Administrator, on the basis of the study that he will arrange with the National Academy of Sciences and through his own efforts, would attempt to find technologically and economically feasible methods of abatement.

So I think the concern of the gentleman from Texas is covered in the bill.

Mr. STEELMAN. I thank the gentleman for his clarification, and again I thank the gentleman for yielding me the time.

Mr. CARTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. Hastings).

(Mr. Hastings asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am not going to belabor the details of this measure. The Members have all been made pretty well aware of them.

There has been concern during the past year, as the gentleman from Indiana has just stated, about the question of the cost of this measure. I must say to the Members that, as a member of the subcommittee, during the many months that we developed this legislation, the cost to the communities of the United States of America was paramount in my mind. I might say that through the cooperation of the chairman of the subcommittee, this bill was changed immeasurably so as to stretch out the time period in which a community would be required to meet the standards. But there is nobody in this Chamber who should not understand ultimately what we are going to be required to do.

Let me give the Members an example. My State of New York is the only State in the Union which has spent $5 million to do a study of drinking water problems in the State. They find, for example, in the city of New York, in order to meet one of the standards that will probably be imposed, the turbidity standard, it will cost $2 billion for just the metropolitan city of New York.

I have a community not 10 miles away from my home, a small rural community of 950 people, where if those standards are actually promulgated that are now advised, the cost to that community of less than 1,000 people will be $675,000—that is for less than 200 families—will be better than $20,000 a family to meet these standards.

We are not going to be required in the 3-year life of this bill to do that. But make no mistake about it—when this bill is up for renewal 3 years hence—once those standards are in place, every community that the Members represent is going to be required to meet those standards, and if they do not, EPA will be given the authority to guarantee that those standards are met.

I can say that what we probably will find is that after the renewal of this legislation 3 years down the road, every time we open up a water tap in every house in the United States of America, we will find an EPA inspector coming out of that water tap.

I thank the gentleman for yielding.

Mr. STAGGERS. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. Gunter).

Mr. GUNTER. I thank the Chairman for yielding.

Mr. Chairman, I have a special concern with respect to the legislation before the House because of Florida's unique dependence on one

particular underground aquifer, the Floridan Aquifer, as the prime, remaining source of fresh water supply for the citizens of my State for the future, and at a time when alarming examples of a deficiency in fresh water resources are already becoming evident in many parts of Florida.

I not only want to commend Chairman Paul Rogers for his long, persistent concern with the threat that exists all over the country to our fresh water resources, and his tireless and unceasing labors to protect this vital resource for our people and all future generations, but I would particularly like to express my personal gratitude for his own cooperation and receptiveness to suggestions I made at the stage of committee consideration of the legislation in an effort to make a positive contribution toward strengthening the bill.

With the full cooperation of Chairman Rogers, I offered an amendment which was accepted by the full committee to provide for interim application of the provisions of the legislation pending such time following enactment when the permanent provisions of the program governing State regulation of underground injections can take effect. **[Sec. 1424]**

Specifically, the provision of the legislation dealing with interim regulation of underground injections which I offered would serve to protect the Florida Aquifer between the effective date of enactment of this legislation and the time several years hence when effective underground injection control programs by the State could be fully implemented.

In the absence of such a provision, an unknown amount of damage could be inflicted with incalculable results on such precious resources as the Floridan Aquifer before an effective program of State regulation could be devised and approved and implemented.

What is at stake here is the proper balance between our energy needs and a proper concern for protection of our vital and most basic natural resources on which we are no less dependent and which are no less important to the well-being of our citizens. Florida faces the same problem as the rest of the country in terms of assuring an adequate future energy supply. But it also faces an equal and special problem, Mr. Chairman, with respect to the prospect of increasingly severe shortages of fresh water supply and the imperative need to conserve and protect those fresh water supplies that remain. The Floridan Aquifer represents the single most important remaining sources of fresh water supply in the State. Any national program such as that envisioned in the pending legislation to conserve and protect such resources for the future represents a critically important step in the right direction. But it is equally important that threatened sources of fresh water supply be protected for the immediate future as well as at a future date. For that reason, I offered an amendment at the time of the committee's consideration providing for a program of interim control of underground injections effective shortly after the date of enactment in cases where a real threat already exists to fresh water supplies and particularly, in the case of Florida, to provide immediate protection for the vital Floridan Aquifer, which would allow under proper procedures the Administrator to regulate dangerous and threatening underground injections between now and the

time State programs can be effectively implemented some years hence. With the encouragement and equal concern with this problem exhibited by Chairman Rogers, the section of the pending bill dealing with "Interim Regulation of Underground Injections" was adopted by the full committee.

The provision specifically applies to those areas like the Floridan Aquifer which the Administrator finds constitutes an area that "has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health."

It would allow any person to petition the Administrator to make a finding so designating an area such as the Floridan Aquifer following proper public hearings and, in case of such a finding, to refuse to issue a permit for an underground injection unless he finds "that the operation of such well will not cause contamination of the aquifer of such areas so as to create a significant hazard to public health."

The provision also permits the Administrator to permit such underground injection wells but to require environmental safeguards sufficient to assure that the operation of a well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

I am understandably pleased, Mr. Chairman, to have been able to make a personal contribution to this legislation in a way I believe will effectively strengthen existing and projected safeguards for the Floridan Aquifer.

However, the real credit for this vital and important legislation, as we know, belong to Chairman Rogers for his diligence and vision over the past several years in recognizing the critical nature of the problem and in moving persistently for means to deal effectively with the threat.

I want to commend Chairman Rogers for his major role in bringing this legislation to fruition, and to express my wholehearted support for the legislation in its entirety. I urge all members of the House to give this legislation their full and earnest support.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. White).

Mr. WHITE. I thank the gentleman for yielding.

Mr. Chairman, I should like to address these questions to the gentleman from Florida (Mr. Rogers), the chairman of the subcommittee, if I may, to be sure that I have understanding of the bill itself.

Suppose a community is not in compliance. Perhaps this question has already been asked, but I want to be sure I understand. If a community is not in compliance, then under the authority of the bill, I presume that the water project can be shut down and fines imposed. Am I correct in this?

Mr. ROGERS. If the gentleman will yield, no, that would not be the proper approach. Under our bill, what happens is we give responsibility to the State to try to bring all of its water systems into proper standards.

Mr. WHITE. But assume that a State does not pass them——

Mr. ROGERS. They do not have to pass them. What they would do is they would look at the problem and discuss it in that community, and if

the community cannot do anything, the State can give a waiver or an exemption up to 7 years for an individual community, or if it is working with one, up to 9 years; but they would try to help them take those steps that are possible to bring it up. In the same time that water company in that community must advise all of its users that their water is contaminated, is not meeting health standards, and I think we are going to find that that is going to be a great corrective force, not from the Federal Government, but locally, which is what I think the gentleman would want.

Mr. WHITE. Suppose a community demonstrates that it does not have the financial ability to make the correction and improvements necessary to bring its water system up to the standards promulgated by this bill and by regulations subsequent to this, what would happen?

Mr. ROGERS. This is what we have said, that one of the grounds for a waiver is economic ability, so that is covered as one of the grounds of a waiver or exemption. **[Sec. 1416(a)]**

Mr. WHITE I did not see that in the bill. Where is it?

Mr. ROGERS. It is there. I will have to show it to the gentleman. I do not know offhand where it is, but it is covered.

Mr. WHITE. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WHITE. Is there any provision for consultation before the imposition of fines?

Mr. STAGGERS. There are no fines.

Mr. ROGERS. The EPA cannot come down and fine people. We do not let them do that. That has been one of the objections. We say they cannot come in.

If the law has not been obeyed and they have given notice to the State and the State has tried to do what they can and everything has run out, and so on, the only way to proceed would be to go to court, and one of the factors to be considered there would be the economics of the situation. I think we have protected this as well as we can.

Mr. WHITE. I thank the gentleman.

Mr. CARTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York (Mr. Robison), one of the sponsors of this legislation, who has been interested in this matter for several years.

Mr. ROBISON, of New York. Mr. Chairman, my extended remarks will reflect many of the reasons for my long advocacy of the Safe Drinking Water Act. However, I first want to explain why I have not chosen to offer H.R. 16760, the substitute bill I introduced several weeks ago and which is in order under the rule.

A little more than 4 years ago, I introduced the Pure Drinking Water Act—the first version of the bill now finally before us—after reviewing with members of the Cornell University faculty an extensive U.S. Public Health Service survey of the Nation's drinking water systems as recently released. That study, titled the Community Water Supply Study, found that 41 percent of the 969 public water systems surveyed failed to meet one or more of the rudimentary Federal drinking water standards then in effect. In addition, survey data revealed that 2 percent of the study population was drinking water of potentially hazardous quality.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ROBISON of New York. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I commend the gentleman from New York for his intense interest in this subject and his leadership in this matter. He has done an excellent job, as has also the gentleman from Maryland (Mr. Gude). Both of these gentlemen have spear-headed the efforts and the work in this matter. The committee is most appreciative of their leadership.

Mr. ROBISON of New York. Mr. Chairman, I thank my friend, the gentleman from Florida.

If anything, the bill I drafted in response to those findings was more stringent than the proposal we now consider. Like so many other observers, I was surprised that such widespread and serious difficulties existed, and I was concerned that the community water supply study might have uncovered only the tip of the iceberg. As a result, my bill had active and direct Federal enforcement of national drinking water standards, and that enforcement effort became effective very shortly after enactment.

During the years since then, there have been several versions of the Safe Drinking Water Act, and I have possibly devoted more time to this legislation than any other single issue I have been involved with. Much of that time—it ought to be noted—has been spent seeking the cooperation of both the old and new administrations in drawing up a bill acceptable to the President.

I mean to stress that fact, because my office has undertaken several direct initiatives during the past 2 years to encourage administration participation in the drafting of a compromise bill. Those efforts continued right up to the present, as I sought the cooperation of OMB and the White House Office of Congressional Liason in drawing up amendatory language to H.R. 13002, which might ease the threat of veto often emanating from those offices.

As a result of one such request, I received a package of amendments from the Office of Management and Budget, which were initially described as "administration amendments." Several of these were cut and pasted directly into my substitute bill, H.R. 16760, which I hoped might serve as a focus for further detailed discussion on administration attitudes toward specific provisions of the committee version of the Safe Drinking Water Act. That intended dialog never materialized, and I was later to find that at the time I was seeking some cooperative effort in reforming the Safe Drinking Water Act into legislation satisfactory to the President, the same individuals at the White House Liaison Office and OMB to whom I spoke were actively lobbying against the bill here in Washington and in various State capitals. And, I regret to say that even as of today, I have not been able to find a more responsive posture in the policy centers of the administration.

Why there has been such uncompromising resistance to any safe drinking water legislation, I am not sure, and this is particularly puzzling since that resistance comes from the same individuals who were responsible for the administration position on this legislation at the time former President Nixon made safe drinking water legislation a national environmental priority. In fact, some of my colleagues may remember that Mr. Nixon earmarked safe drinking water legislation as a priority in his last two environmental messages to Congress.

Whatever the explanation, my substitute bill failed to receive any administration support whatsoever, and there has, likewise, been no indication that any substitute makes the threat of a veto less likely. The committee members responsible for this proposal—particularly the gentleman from Florida (Mr. Rogers)—who have been so cooperative with me, have understood, I am sure, that the work I undertook to put together my substitute was chiefly an effort on my part to meet the threat of a Presidential veto raised by White House liaison personnel. In that regard, I want it understood that I have never been convinced that changes in the committee bill's provisions were all that necessary or desirable, since those provisions have moved a substantial distance from the enforcement concept of the original committee bill—and, in fact, from my own early version of the bill.

Further, my colleagues may note that—perhaps out of deference to my own early work on this problem area—the committee has kindly allowed my name to appear as one of the cosponsors of its final product. I can assure my colleagues that my attitude toward this bill is what might be expected of a cosponsor. The measure defines a serious national problem and proposes a realistic and reasonable method for arriving at its resolution. It is a solution which can be acceptable to all of us, and I trust that, when President Ford, himself, understands the situation—as, given his other burdens, I doubt he now does—this bill will receive his approval.

Mr. Chairman, to continue with a general discussion of the problem, the first known regulations for the treatment of drinking water appeared some 4,000 years ago, when—according to an ancient Sanskrit source—the prudent man was "directed to heat foul water by boiling and exposing to sunlight and by dipping seven times into it a piece of hot copper, then filter and cool in an earthen vessel." Taken in historical prespective, those were enlightened directions, in an age when bacteria and viruses were completely unknown agents of disease.

In fact, for almost 40 centuries there was little improvement on the Sanskrit formula. It was only during the early years of our own century that scientists found cholera and typhoid epidemics could be traced to drinking water, and there followed large-scale rebuilding of drinking water systems in all parts of the country. We have grown complacent about drinking water since then, and with good reason. Cholera and typhoid are almost unknown in this country, and none of us can remember the kind of epidemic—still common on some parts of the world—where hundreds die from water-borne disease.

It became apparent in the 1960's, however, that our drinking water was not quite at the state of perfection most of us presumed. A succession of investigations revealed that in the decade from 1961 to 1970, there were 128 known outbreaks of disease or poisoning attributable to drinking water; 20 people died in those outbreaks and an estimated 46,000 became ill. And, I should emphasize that these statistics come from known or reported outbreaks of this sort. Most experts agree that other such outbreaks have not been reported because of fear of political or legal liability, or simply because of local pride.

Further doubt in the adequacy of drinking water on a nationwide scale was added by the 1969 community water supply survey, conducted as I have noted by the U.S. Public Health Service, which found

a distressing lack of attentiveness to local drinking water supplies. After observing 969 water systems of every shape and size, the study found that 41 percent of the water samples from those systems did not meet the 1962 recommended Federal drinking water standards—and those recommended standards have been revised in several instances because of more refined knowledge of the health effects of certain water contaminants.

Further, the community water survey documented the existence of a large-scale failure to assure that water system operators and technicians have a sufficient level of training. In addition, the study found more than half of the survey systems had not been visited by State inspectors within the memory of local attendants and technicians.

The message was clear to most of those who considered the survey results; and since those days, local drinking water systems and State officials, in many parts of the country, have responded in a highly responsible manner. It is clear, however, on the basis of several years of congressional hearings, that the Federal Government can play a more active and constructive role in contributing to the improvement of drinking water supplies and to the refinement of technology which can accomplish that improvement.

You may have already heard in this debate that about 12,000 different toxic chemical compounds can be found in industrial use today. More potential pollutants are added each year from among the 500 new chemical compounds developed annually. The breakneck pace of this technology places impossible burdens on individual water systems seeking to provide the safest possible water to their customers. In the first place, over 80 percent of the public water systems in the country are small systems, serving less than 5,000 people. These small systems are directly dependent on the research work of universities and State-sponsored organizations, plus the low-level program which has been operating in the Federal Government for the past few years.

The collection of these facts points to the advisability of a new partnership agreement with the small drinking water utility, in which Federal, State, and local governments join to develop new water purification technology, as well as new engineering techniques which can reduce consumer costs. I believe I can accurately characterize the intent of the bill before us as the attempt of this body and this Congress to help establish such a partnership—not to create a new and onerous enforcement program which seeks impractical and expensive goals.

When talking about drinking water quality, we are talking about people's health and well-being. Every person who puts a glass under a water tap can appreciate efforts which further protect the water he is about to drink, and every customer in a drinking water system can be expected to demand immediate correction of any defect in that system which might place the quality of the water in doubt.

The Safe Drinking Water Act rests on this presumption that the best regulator of drinking water quality is the consumer, and thereby requires that whenever a drinking water utility finds it does not meet a national health standard, all consumers in that system are to be notified of that fact. [Sec. 1414(c)] There are enforceable Federal health standards in this bill—no question about that—but they are

enforced by the States, and it is up to the responsible State agency to decide how long, and in what manner a particular community moves to come into compliance with these health standards.

H.R. 13002 is particularly lenient in this regard, since it allows State agencies to provide variances from Federal standards for up to 7 years after enactment. Taken in this perspective, I believe it is fair to say that the Federal health standards required in this bill will have the primary effect of setting national guidelines for good quality drinking water. It will be up to the States and drinking water consumers, then, to determine whether in every instance they wish to meet these guidelines, and how they wish to go about doing so. For instance, it is conceivable that a particular community might find it cheaper and more convenient to join a regional water supply than to upgrade undependable local supplies.

As I stated at the outset of my remarks, Mr. Chairman, we have a bill before us which makes a realistic and reasonable attempt for arriving at a solution to drinking water problem we know to exist. I urge my colleagues to give H.R. 13002 their favorable consideration—as I will urge President Ford also to do once we have enacted this measure.

Mr. Chairman, once again I wish to express my appreciation to the members of the committee, and particularly to my friend, the gentleman from Florida (Mr. Rogers), both for their interest in this problem and in its solution, and for their long and careful inquiry into the pros and cons of the several alternative approaches available in the search for a proper solution, and, more especially, for their willingness to allow me to work along with them, as I have, to that end. It is an experience I shall remember, and for which I shall remain grateful.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from New York (Mr. Biaggi) such time as he may consume.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman from West Virginia for yielding.

I rise in support of this measure. I consider its passage to be vital if the Federal Government is to make its long overdue commitment to insuring that the drinking water from the tap will continue to be safe for our consumption.

In recent months, we have read a number of disturbing reports from various municipalities across the Nation, which indicate the possibility that their drinking water might be contaminated with potentially dangerous cancerous producing chemicals. One of these cases was reported right here in Washington. While the EPA has authorized an intensive investigation into our and other drinking water systems, a more nationwide commitment is needed and that is what is contained in the bill.

Specifically the bill provides EPA with the authority to establish nationwide standards for drinking water to be imposed on localities who fail to have their systems meet minimum standards of health and safety. [**Sec. 1412**] These regulations would take into account the potential hazards inherent in many water systems and would seek to eliminate them. The States and localities would be given an opportunity to develop their own standards and only if they fail to do so would the Federal Government have the authority to impose their standards. [**Sec. 1413**]

Further the EPA would undertake an immediate and comprehensive program to insure that all underground sources of drinking water are free of real or potentially hazardous materials. **[Sec. 1421]**

In the past the Federal Government's authority to regulate the quality of drinking water has been limited and largely ineffective. It has failed to deal with recent disclosures contained in reports of the GAO and EPA which have pointed out the presence of dangerous chemicals in many drinking water systems across the United States.

In major cities such as New York, this legislation will have an added benefit of giving the EPA the power to allocate chlorine and other chemicals needed for water treatment if such chemicals are not readily available. **[Sec. 1441]** New York City faces such a shortage of chlorine which is needed not only for its drinking water but also for treatment of water in recreational facilities such as pools.

I am pleased to see this legislation finally reach the floor of the House. It is the culmination of many months of effort by the committee and its distinguished chairman Mr. Staggers as well as certain Government agencies. A commodity such as drinking water which every American must come in contact with on a daily basis must be made safe from possible contaminants. We can correct the problems in our drinking water supplies now before undue panic sets in among the American people. I urge the immediate passage of this bill today and its prompt signature by the President so that all available resources of the Federal Government can be directed at insuring the safety and quality of our drinking water.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii (Mr. Matsunaga).

Mr. MATSUNAGA. Mr. Chairman, I am pleased to voice my support for the passage of H.R. 13002, the proposed Safe Drinking Water Act. There are many things which we as a nation have learned to take for granted, only to find to our very great surprise that our expectations are no longer valid. Perhaps in no area is this disillusionment so prevalent as in our expectations concerning environmental factors.

As a people, Americans have been proud of our wide open spaces, our amber waves of grain, our blue skies, and our clean and pure water. There is no need for me to elaborate on what has happened to these priceless treasures—treasures which probably because of their priceless, we have treated as though they were bereft of value. In this year of 1974, we are feeling the pinch of overpopulation, our grain crops are withering in the drought and frost—which is the only environmental disaster that we have not caused—our blue skies are tinged brownish-red with smog, and almost unnoticed, our drinking water is no longer certain to be fit for human consumption. Satirist Tom Lehrer warned us a decade ago:

> When you visit American city,
> You will find it very pretty;
> Just two things of which you must beware—
> Don't drink the water and don't breathe the air.

In the decade of the 1961–70 there were more than 46,000 incidents of disease and more than 20 deaths caused by unsafe drinking water in the United States. In 1973 the General Accounting Office was able to find only 60 of 446 water systems which it studied to be in compliance with existing water safety standards. In that same year, the Environ-

mental Protection Agency estimated that at least 8 million Americans are drinking water that is unsafe. Imagine if we had a law in this country—and perhaps one might be in order for us to consider soon—which mandated that every tap and faucet was required to bear the legend:

Beware: It has been established beyond a doubt that the water you are drinking may be hazardous to your health.

Of course, this is a bit facetious and, at this point, premature. But it is our goal as Representatives—and in this case, as protectors—of the American people to insure that this remains facetious, and that our water is prevented from becoming a general and universal health hazard. For that matter, commonsense also tells us that this is the most effective way to protect our financial resources since it obviously is much less costly to protect and upgrade our current supply than to try to rush in and repair a degraded water supply.

I have cited a GAO study which found fewer than one in seven water systems to be in compliance with existing drinking water standards. This is bad, bad enough to rightfully cause alarm from every Member of this House. We should be demanding an investigation to find out how the guardians of our public water supplies have allowed such a degradation to occur. We should be up in arms and we should act to remedy the situation.

If we were to make this demand, and a rightful demand it is indeed, we would be dismayed to find that even the standards which we now have are entirely inadequate. These are standards which specify maximum contaminant levels only for the purpose of communicable disease control. There is no reference in the present standards to chemical poisons and heavy metals, and there is no reference to viruses. Furthermore, the current standards for inspection and monitoring of the water supplies are so minimal as to be almost meaningless.

Fortunately, the distinguished gentleman from Florida (Mr. Rogers) and the other members of his subcommittee have brought to the floor today a measure which would go about, in a very scientific and reasonable manner, making sure that proper standards for drinking water are established, and that these new standards are enforced.

I am pleased to support this bill, and urge each Member to join in support of it. At this time the proposed Safe Drinking Water Act, H.R. 13002, is an urgent bill to deal with a situation that is not yet an emergency. If we as a body can act with the same vigilance as the members of the Public Health and Environment Subcommittee and move to control the quality of our water supply before it is too late, we should be able to forestall a later emergency and a great potential disaster. A bill such as this one, which contains moderate and reasonable provisions for doing what needs to be done is certainly worthy of enactment this session.

I urge its overwhelming approval.

Mr. CARTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. Gude).

Mr. GUDE. Mr. Chairman, I wish to state my strong support for H.R. 13002, the Safe Drinking Water Act. Most Americans have assumed that modern technology assures them of a continuous supply of safe, pure drinking water. In the past this has been a fairly safe as-

sumption. But as our raw water sources become more polluted, and as more cities find themselves faced with the prospect of recycling water, much more attention will have to be paid to the quality of the final product.

Water treatment systems under the Safe Drinking Water Act will be required to comply with maximum contaminant levels to be set for any physical, chemical, biological, or radiological substance or matter in the water. New standards are long overdue. The U.S. Public Health Service drinking water standards are now far out of date. They were designed for application to systems with a relatively pollution free source of raw water.

One of the hazards that has recently been recognized is the possible presence of viruses in water that has undergone treatment. This could be a particular problem when the raw water source is highly polluted with human or animal waste.

Only a few disease-causing viruses have been shown to be transmitted through drinking water. Scientists do accept waterborne transmission as a common route for the infectious hepatitis A virus. And there are numerous waterborne epidemics documented for viral gastroenteritis. Viral agents associated with these diseases have recently been visualized. These are the most important diseases transmitted by water, accounting for about 70 percent of all waterborne diseases in the United States.

With proper support, research which is underway will unlock the secrets of these diseases, and give us the essential knowledge as to the adequacy of present treatment systems in dealing with them.

Government researchers at NIH are demonstrating great skill in virus research and strong congressional support is warranted, not only because of gains in knowledge in waterborne viral diseases, but efforts as well with influenza and pediatric respiratory viruses. In addition to the discovery of the gastroenteritis agents, another major breakthrough was achieved by NIH Doctors Stephen Feinstone, Albert Kapikian, and Robert Purcell, last year when they visualized the virus that causes infectious hepatitis, hepatitis A. As a result, for the first time scientists now have the means of diagnosing and studying hepatitis A.

The virus question is often raised in the context of a discussion of failures of water treatment plants—for example, inadequate plant equipment or poorly trained plant operators. Chlorination failure, back-siphonage and other such breakdowns often lead to an outbreak of waterborne diseases. Similarly, the consumption of untreated or poorly treated well water can cause outbreaks.

These occurrences can be prevented by the use of adequate equipment and better personnel training. The Safe Drinking Water Act will help this situation by setting maximum contaminant standards and providing aid to the appropriate local agencies.

The major virus problem for the future, however, will be with modern plants that have good personnel, but have to treat highly polluted water. Many cities in the United States today are using water that has already been used by an upstream neighbor. Many more cities will do so in the future as populations grow and water supplies remain fairly constant. The Federal Water Pollution Control Act Amend-

ments will in time bring about cleaner water but, for the immediate future, we will be using that which is more and more polluted.

The increased pollution of water supplies is cause for more concern with viruses because their low level transmission is evidently responsible for subclinical infections. The ratio of clinical cases to subclinical infections ranges from 1:10 to 1:1000, depending on the species of virus involved. In addition to this, the infectious dose of viruses is very low. Subclinical infections must be recognized as a serious problem. They may not only be responsible for much of the minor undiagnosed sicknesses which afflict us all from time to time, but very likely produce minor epidemics in susceptible populations. There is also speculation that such infections may, over an extended period of time, contribute to certain forms of heart disease or cancer.

Therefore, a major need in the water sanitation field is the development of a quick, inexpensive monitoring technique for viruses.

Such a monitoring technique need not detect specific pathogenic viruses such as hepatitis A or a gastroenteritis virus, but merely measures a "tracer" virus of the same characteristic—one whose presence would indicate that infectious viruses of an enteric nature could be present. Such a test is analogous to the widely used test for the bacterium, E. Coli. E. Coli is a relatively harmless tracer organism for bacteria. When it is present in water, it indicates that waterborne enteric disease organisms could be present.

Because of the difficulty of isolating and growing viruses, bacteriophages—viruses which destroy bacteria—offer good potential as tracer viruses. A bacteriophage which conforms to the most resistant waterborne disease viruses would make an ideal tracer.

Virologists at NIH tell me that they believe an appropriate tracer virus could be isolated and a monitoring system developed in several years.

With such a monitoring system, municipal water supplies in the United States could well be monitored with the same efficiency and economy as they are presently monitored for bacterial disease organisms.

Presently, it is assumed that if the E. Coli test shows an absence of bacteria then the water is potable and that disease organisms including viruses have also been inactivated. Unfortunately, this is not always true. Recent studies have shown that chlorine is not as effective against viruses as the E. Coli bacteria. Chrlorine, the most common disinfectant in municipal water treatment plants, also varies in its effectiveness against different strains of viruses.

It is evident that much research needs to be done on viruses, virus detection and the efficacy of various water treatment systems in inactivating viruses. Thus, I am very pleased that the Safe Drinking Water Act addresses this issue. In **section 1442(a)(7)**, the Administrator of EPA is directed to carry out a study of virus contamination of drinking water and the means of controlling it.

Local agencies also have a role to play and this act would provide grants which could assist them. In **section 1444(a)(2)**, the Administrator is given authority to make grants to assist in the development and demonstration of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

Such grants would be most useful. The jurisdictions in the Washington metropolitan area, for example, should begin an extensive virus monitoring program because most of the water treated here is from the polluted Potomac River. If funds were available under this act, the regional Metropolitan Area Council of Governments could use such funds to undertake a monitoring effort. Perhaps the techniques developed during such a program would lead to faster, less expensive monitoring techniques.

Viruses will be just one factor in the future water supply equation. Another area of concern must be chemical pollution. We also would like to see improvements in the taste and odor of water. I believe that this act, if passed and fully implemented, will be an important beginning to a program which will enable Americans to continue to take their water supplies for granted. And in an era of vanishing resources, that would be most appreciated.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Chairman, I thank the chairman of the committee for yielding to me. I would want to ask the chairman of the subcommittee some questions, particularly with reference to the underground water injection.

If the chairman would look on page 94, part C, which says, "Protection of Underground Sources of Drinking Water, Regulations for State Programs," in that section, particularly **section 1421**, are some provisions for the Administrator to publish proposed regulations for State underground injection control programs within 180 days after enactment of this bill.

I would like to ask the chairman of the subcommittee whether it was the intent of the Congress that the Administrator propose such regulations that will require every person, whether he is drilling for an oil well or a water well, to obtain certification from the EPA that he is not guilty of pollution as well as obtaining certification from the State. Would the chairman comment about what he thinks was the intent in this particular section—that is, to give the Administrator unlimited powers?

Mr. ROGERS. No. First of all, it gives primary responsibility to the State. Part C **[Secs. 1421–1424]** speaks only to the adequacy of State programs, not individual wells. Also, as the gentleman knows, the provisions of the bill are not concerned so much with drilling as with the injection of waste into the ground.

Mr. PICKLE. The gentleman would recognize, of course, in the instance of drilling for oil and/or gas, that it is a necessity to put that brine back into the ground as a health protection situation. So, we have the question to begin with: Whenever we drill one of these wells, is it the responsibility of the States or is the EPA going to pass judgment on that?

Mr. ROGERS. It would be the responsibility of the State, assuming its program is approved.

Mr. PICKLE. If it is the responsibility of the States, it goes forward in the section on page 97 **[Sec. 1421(c)]** to say that there would be some temporary permits which could be granted under certain instances. That is limited. I am assuming that in general the primary responsibility still is left with the States in all other areas.

Mr. ROGERS. The gentleman is correct.

Mr. PICKLE. **Section 1422** on page 99 provides that the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources.

Is it the intent of the Congress, by this legislation, to limit the Administrator, by establishing certain criteria that need to exist before he exercises that judgment?

Mr. ROGERS. May I say that the bill places the authority to list States in the judgment of the Administrator. Of course, we expect his judgments to be reasonable and we will monitor them.

Mr. PICKLE. If this Administrator takes upon himself the responsibility that has been exercised in other legislation passed, then we can expect a great deal of burden to be put on the States. If the State is doing the job, then I would say they ought not be subject to the same kinds of regulations.

Mr. ROGERS. May I say, I think the gentleman is basically right in his concept. For instance, Mr. Train has already written us about Texas saying he feels the program is sufficient to qualify under the provisions of the proposal.

Mr. PICKLE. I would ask the gentleman to insert in the Committee of the Whole that letter from Mr. Train so it could be made a matter of record.

Mr. ROGERS. Yes, I will request that it be inserted at this point when we go back in the House.

The letter follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., May 23, 1974.

HON. PAUL G. ROGERS,
Chairman, Subcommittee on Public Health and Environment,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your May 6 letter concerning the underground waste injection control provisions of H.R. 13002, the "Safe Drinking Water Act."

While I am sure that you are aware of my comments on this legislation relating to underground injection in my November 28, 1973, letter to Mr. Staggers, Chairman, Committee on Interstate and Foreign Commerce, I appreciate the opportunity to comment in response to your specific request regarding state underground injection control programs.

Texas and Kansas both have the statutory and regulatory authority necessary to meet the requirements of Sections 1421 and 1422 of H.R. 13002, with the exception of Section 1421(b)(5) relating to underground injections by Federal agencies. Permit application, with supporting engineering and geological evaluation, are required prior to construction and operation of subsurface injection wells. Operating permits may be revoked and civil penalties may be assessed for noncompliance. The public record shows that, within available resources, Texas sanctions the EPA recommended policy on subsurface emplacement of fluids by well injection published in the Federal Register on April 9, 1974. Kansas applies this policy as required under the EPA National Pollutant Discharge Elimination System.

In light of these facts, and when measured by the present requirements of the sections cited from H.R. 13002, I would be inclined to view favorably an application for approval of these programs.

My staff and I will be pleased to provide any additional assistance you may require.

Sincerely yours,

RUSSELL E. TRAIN.

Mr. PICKLE. I understand. The gentleman knows that in the past sometimes Federal agencies got carried away when we start writing guidelines.

If, before anyone can dig a hole in the ground, they have to comply with all these regulations, permits, et cetera, we are going to have our citizens further disgusted with their Government. When we have a State that has already provided safeguards, and a system that is working, we should be hesitant to change that system unless it is for compelling reasons of protecting the health of a community by safeguarding their drinking water. Therefore, I want us to be sure that before that Administrator issues these regulations he consider carefully the impact it will have on State regulations, and whether these regulations have in fact been working well.

Mr. ROGERS. Yes.

Mr. PICKLE. I would point out to the gentleman that for every barrel of oil that comes out of the ground, sometimes it takes almost the same amount of water to be pumped back into it to produce that oil, because oil is caught in pores of the rocks under the ground. Unless we can put this water down there, then we could have another health hazard if we use open pit systems.

Mr. STAGGERS. Mr. Chairman, I might take one moment to compliment all of those we have heard from on this bill. In its earlier versions I had some fears about the bill, but I am so convinced that the committee bill is one of the most necessary bills in America today. For those who have been interested in safe water through the years, I want to compliment them for the work they have done. I think the bill is in the interests of all Americans and I think we would be derelict in our duty if we did not pass this bill.

I have no further requests for time.

Mrs. HECKLER of Massachusetts. Mr. Chairman, we have all read with concern the recent reports linking cancer to contaminated drinking water. Less publicized are the estimates that contaminated water caused 130 waterborne disease outbreaks from 1961 to 1970, resulting in more than 46,000 illnesses and 20 deaths.

A major problem has been that although there are Federal water purity guidelines, last revised in 1962, there is no overall Federal enforcement power or even a national drinking water policy.

The legislation now before us (H.R. 13002) is a major step forward in solving this problem. The bill is aimed at insuring that all public water supply systems meet minimum national standards for public health protection.

It authorizes the Environmental Protection Agency to set national standards regarding all harmful contaminants. States will have primary enforcement responsibility, but backup Federal authority is proprovided to be used when States cannot or will not guard from danger. A similar State-Federal partnership is established to protect underground sources of drinking water.

The bill also authorizes the allocation of scarce chlorine. And it sets up a program of financial, technical, and other assistance related to the protection and improved treatment of water supplies.

I call on my colleagues to approve this legislation. Pure drinking water is essential to everyone's health. And the American people must be assured that their water is safe to drink.

Mr. BLATNIK. Mr. Chairman, chemical and other contaminants have literally burst upon our environment in the last 25 years with the dramatic expansion in the use of chemical compounds for agriculture, industrial, institutional, and domestic purposes. However, as is often the case with new scientific discoveries, detailed knowledge about the ramifications and effects of these chemical compounds on the environment and the human body has lagged behind.

There are some 12,000 different toxic chemical compounds in industrial use today and more than 500 new chemicals are developed each year.

Yet, no national standards exist which apply to water supply systems and in many cases provision of a safe drinking water supply is hampered by inadequate bacteriological samples needed to determine the contents of the water, lack of chemicals for treatment, or scarcity of personnel trained in fundamental water microbiology.

The results of a 1970 national community water supply study of 969 systems demonstrated that, although 80 percent of the 18 million people were receiving good water, 41 percent of the systems themselves were delivering water of inferior quality—and, in fact, that 360,000 people were drinking water of a potentially dangerous quality. This was gaged by Public Health Service standards, the most authoritative in use today, but at best only a general indication of major contaminants.

It is safe to say that most of us in Congress, through no deliberate deception or intent by our local officials back home, have some public drinking water systems in our congressional districts which contain suspect material—and, that potentially dangerous synthetics, adhesives, solvents, and pesticides remain in the public drinking water.

In my own district, this has been particularly evident for over a year since the discovery of asbestos-like particles in Lake Superior which provides the drinking water for six communities along the northern shore of the lake. This discovery has led to a complicated and lengthy lawsuit which promises to be a landmark court case in environmental law. For over a year scientists have launched an intensive study for all inclusive evidence on the effects which ingested asbestos has on the human body—attempting to resolve difficult questions about "demonstrable proof," how much asbestos is too much, and wrestling with the emphasis which economic considerations should play in a decision of this kind.

These analyses by top experts has brought to light a series of revelations which extend much further than our local drinking water situation.

We have learned that:

Few of our supplies of drinking water are monitored for submicroscopic particles, such as the kind found in Lake Superior;

Many of our municipalities lack personnel trained to identify or understand the implications of chemical substances in the water;

Even our trained scientists know little about the environmental and health impacts of these chemicals, including the body's overall ability to tolerate an accumulation of the chemicals.

We have been trusting that our water is clean. But, with 12,000 different toxic chemical compounds in industrial use today and with

these wastes entering our ground and air surface waters—trusting is now no longer enough.

The Safe Drinking Water Act, before us today, takes a big step forward by setting national standards for drinking water and placing primary enforcement responsibilities with the States. In addition, the legislation would assist public water systems by authorizing research and studies on water supply problems, by establishing guidelines for State programs to protect underground sources of drinking water, by authorizing grants for demonstration of new methods for treating water with special problems like Lake Superior and with a requirement for public notification to users in case of violation of the primary regulations—affirming the rights of every American to know what he is drinking.

Although the Congress has enacted legislation which I authored to fund training programs for the design, operation, and maintenance of waste water treatment facilities, it is significant to note that no comparable program exists to train people in the operation of public drinking water supply systems.

The Safe Drinking Water Act, however, addresses this problem, by providing technical assistance to State and local governments in training needed personnel.

A 10-year survey of waterborne disease outbreaks showed 130 reported disease outbreaks involving 46,374 individual cases, and some noted scientists are predicting that it is only a matter of time until we have a large-scale environmental health tragedy.

The need for more water and the increasing demand which will be put upon our present water supply must certainly cause us to ask some searching questions about further requirements and how they will be met.

A safe and adequate water supply depends heavily on a research and development program in water analysis, an ability to evaluate health effects of the water constituents and a full understanding of treatment methodology by trained personnel. That is why it is important for us to overwhelming affirm today every American's right to safe drinking water by passing the Safe Drinking Water Act.

Mr. BURKE of Massachusetts. Mr. Chairman, I am extremely pleased that the House is taking up H.R. 13002, the Safe Drinking Water Act. While there should be no doubt that this country has one of the best, if not the best, water systems in the world, we are still far from having safe drinking water in many parts of the country. The legislation before us today gives us the chance to insure that water supply systems serving the public meet minimum national standards.

A 1969 U.S. Public Health Service study revealed that over one-half—56 percent—of 969 public waterworks surveyed had physical deficiencies. In addition, during the 10 years, 1961–70, there were over 46,000 illnesses and 20 deaths attributed to unsafe drinking water. These facts alone, should be enough to awaken us from the shared illusion that the water which comes from our faucets is clean and safe. The recent Environmental Protection Agency discovery of harmful chemicals in the New Orleans water supply must make us more aware than ever before of the possibility of additional medical disasters. The Safe Drinking Water Act should provide the first step in securing

safe water for us all. After all, it is hardly an unreasonable goal in the 1970's, when we can take such pride in our technological accomplishments and generally high standard of living. While the price per capita for safe drinking water would be small, the benefits would be well worth it considering the costs which we now put up with as a result of impaired health and lost days of work attributable to a substandard water supply.

Why should we let a health crisis develop? This Congress has established an excellent record with its consumer and public protection legislation but had been surprisingly low in ending this obvious health hazard. While expending much time and energy on desperately needed sewage treatment proposals, we have largely ignored the other side of the coin—treatment of the water we drink. I think it is now time to join our Senate colleagues in support of safe drinking water and I urge your support for this bill.

Mr. LEHMAN. Mr. Chairman, I rise in support of the Safe Drinking Water Act.

Mr. Chairman, Miami is one of the few large cities in the world located on land only a few feet above sea level. Our freshwater comes from the Biscayne Aquifer, which is charged by our high yearly rainfall, and the flow of water southward from Lake Okeechobee through the Everglades and the Big Cypress Swamp.

Unfortunately, when the first land promoters came to Miami in the early 1900's, they were bent on draining the Everglades to make this land suitable for farming, and constructed a series of canals for this purpose. With this construction came what is known as saltwater intrusion, and as the freshwater level was lowered, so was the freshwater pressure pushing against the sea. In the 1950's, permanent salinity dams on all major canals were built, and now the saltwater front remains relatively stationary.

But saltwater intrusion is still a major threat. During periods of drought and/or high demand for water, the aquifer is lowered, which lowers the freshwater pressure against the sea and thus increases the danger of intrusion of saltwater.

The canals are also the cause of a second problem. In addition to being used for the discharge of excess rainfall to the ocean during wet periods of the year, the canals are also used to recharge our freshwater well fields. Because of the canal system, the rainwater is unable to percolate through the ground for aquifer recharge, and consequently all kinds of contaminants remain in the canal water which then goes to our freshwater well fields.

Such contaminants which seep into our freshwater supply are pesticides and fertilizer runoffs, raw sewage discharge from boats, and street and water runoffs which include such substances as oil, zinc, asbestos from brake linings, rubber from tires, and lead from gasoline.

Contaminants also enter our water supply from dumpsites in Dade County through what is known as a leaching process.

Currently, the most serious water problem is occurring in North Dade. Residents in the area turn on their faucets and get a foaming, ill-smelling, discolored liquid that the authorities claim is water. Explanations abound, but it seems that the crux of the problem is too much and too rapid development in the area.

I have spoken with Mayor Jay Reardon of North Miami Beach, and have been in contact with members of the city council and other concerned citizens in an effort to find Federal funds somewhere to help the city of North Miami Beach with its severe water problems. So far, my search has been unsuccessful. In the meantime, however, 49 suits have been filed against the city, and the North Miami Beach Water Department is faced with a moratorium on new water hook-ups.

It is estimated that the city needs $4 million to clean up its water system—a system that serves two-thirds of north Dade. This bill will not help the city of North Miami Beach particularly, but I am supporting the bill because I believe it is a start in the right direction. The Safe Drinking Water Act will require the Administrator of the Environmental Protection Agency to set standards for maximum contaminant levels for substances which may cause harmful health effects, or if such monitoring is not feasible, to require certain kinds of treatment for the contaminant which will meet the requirements of providing maximum feasible protection of the public health. If the Federal Government finds that the States are not complying with enforcement of the standards, the Federal Government will step in and enforce those standards.

The problem in North Miami Beach is the subject of secondary drinking water regulations under this bill, and therefore not federally enforceable. The role of the Federal Government in this area is to set standards for secondary drinking water regulations, which are to be used as guidelines by the States. However, if it is found that the particles which are causing the unsightly and ill-smelling water are also carriers of adverse health effects, then this type of water problem would be covered by the primary standards and would, therefore, be federally enforceable.

South Florida not only needs safe water for drinking, but it needs more of it. While this bill is a step in the right direction, I believe that Federal assistance must be given to communities such as North Miami Beach which are facing grave problems in the adequacy of fresh water supplies.

Mr. FRASER. Mr. Chairman, I rise in support of the amendment offered by my colleague from Michigan (Mr. Ruppe).

The purpose of the Safe Drinking Water Act is to protect the public health by insuring the safety of the water we drink. Through national standards, implemented under State programs, with backup Federal enforcement procedures, we would be able to realize this major public health objective.

The amendment before us would make clear that securing the public health is the primary goal of the Safe Drinking Water Act. The amendment would shift the burden of proof to polluters. Individuals or firms using drinking water supplies as the repository for wastes would have to show that those wastes do not constitute a threat to the public health.

Two years ago the Federal Government brought suit against the Reserve Mining Co. of Silver Bay, Minn., for violations of the 1899 Refuse Act and the 1972 Water Pollution Control Act. Reserve Mining, which processes low-grade iron ore, called taconite, dumps 67,000 tons of waste sand and gravel daily into Lake Superior.

Lake Superior is the source of drinking water for communities along its shores. Recently, asbestos-like fibers were discovered in the taconite tailings—fibers similar to those which have caused cancer in asbestos workers.

In April, U.S. District Court Judge Miles Lord ordered the plant shut down until the company had worked out a system of on-land disposal. Judge Lord ruled that the risk of people getting cancer was too great to accept.

The Eighth Circuit Court of Appeals reversed the order on the grounds that Judge Lord, by resolving all doubts in favor of public health, had exercised "a legislative policy judgment, not a judicial one."

Without going into the merits of the appeals court ruling, I urge Members to approve the amendment before us and leave no room for doubt. If Judge Lord, in giving precedence to public health considerations, did in fact make a legislative policy judgment and not a judicial one, let us clarify that legislative policy and make certain that public health objectives are paramount in the Safe Drinking Water Act.

Mr. MICHEL. Mr. Chairman, I support the objectives of the bill before us, and I think the facts speak for themselves as to the need for more attention to the quality of the water we drink and to the protection of people who, for the most part, have little control over the safety or source of their water supply.

Two recent studies have been used to a considerable extent in pointing up the severity of the problem—one done by the General Accounting Office in 1973 and one by HEW in 1970. Both found serious deficiencies in our efforts to set and maintain standards insuring safe water supplies throughout the country.

The HEW study showed that more than 5 percent of our national population were receiving public water not meeting the primary Federal health standards. It found that 41 percent of all public systems failed to meet some constituent level requirement; that 56 percent had major facility deficiencies; but that a full 90 percent did not even collect sufficient bacteriological information to judge the safety of the water supply. The GAO study found that 60 percent of the small systems failed to meet Federal standards, and that an additional 20 million persons rely on inferior self-supplied water.

It has been estimated that contaminated water has been responsible for some 130 outbreaks of disease from 1961 to 1970, resulting in more than 46,000 illnesses and 20 deaths. Recent reports linking contaminated water supplies with cancer have alarmed many of us, and underscore the need to move decisively to provide adequate water quality protection.

I believe the provisions in this bill can go a long way toward meeting these very evident needs, but in stating this I must also say that I have some real reservations about this legislation.

I am concerned about preemption of State enforcement authority, and administrative procedures that may prove costly and time consuming. I have questions about Federal standards for water treatment plant siting and intake water quality. I doubt that the Federal assistance programs in the bill have been adequately considered in the context of our Federal fiscal situation.

I hope some of these provisions can be looked at again before we finalize this bill, but in any event we need to move expeditiously on this legislation. This is a problem that will not wait, involving the basic health of millions of Americans, and we ought to be approaching it with some sense of urgency.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows: [H.R. 13002, see text, pages 399–532.]

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. HEINZ

Mr. HEINZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Heinz: Page 132, line 12, strike out the quotation marks and insert after that line the following:

"(i)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced, caused to be commenced, or is about to commerce or cause to be commenced a proceeding under this title or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

"(B) testified or is about to testify in any such proceeding, or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

"(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to

his former position together wth the compensation (including back pay), terms, conditions, and privileges of his employment. (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title."

Mr. HEINZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HEINZ. Mr. Chairman, I rise to offer an amendment jointly with Mr. Symington. The Safe Drinking Water Act would assure that our Nation's drinking water supply is clean and potable. However, I believe that this worthy legislation would not alleviate a potential problem—the problem of discrimination against the employee who attempts to correct a violation he or she sees occurring. I have discussed this amendment with the distinguished chairman of the subcommitee, Mr. Rogers, and he has indicated his support for the amendments.

What this amendment would accomplish is nothing new. The Congress has already enacted similar provisions in the 1972 Water Pollution Control Act Amendments and in the Occupational Safety and Health Act of 1970. The amendment we are now offering is a refined version of the employee protection language in those existing statutes. Although the language in the amendment differs in some areas from the existing provisions in order to add clarity and to tailor it to the needs of this bill, the thrust of the amendment is the same.

The amendment provides that exployees who institute proceedings under this act, testify in proceedings under this act, or participate in

other actions to see that the purpose of the act is carried out, cannot be fired, or otherwise discriminated against for their actions.

The aggrieved employee, under this section, files a complaint with the Secretary of Labor within 30 days of the alleged violation. The Secretary of Labor then conducts an investigation and issues an order within 90 days. During this time, both the employee and the employer are given the opportunity to request a public hearing on the case. As a matter of fact, 30 days after the filing of the complaint, the Secretary is required to inform both parties of the results of his initial investigation. This will give the two parties a good chance to decide whether or not a public hearing is needed to fully illuminate their case.

If the Secretary determines that the employee's rights have been violated, an order is then issued to require the rehiring of the employee, with back pay, or whatever relief is necessary to make the employee whole in relation to his or her former status.

Both the employee and the employer, of course, have the right to appeal the Secretary's order in the appellate courts within 60 days.

I do not believe it is the intent of Congress to see employees fired or discriminated against when they perform their civic duties and report violations of this act. This amendment, which is very similar to provisions already enacted in two other statutes, would prevent such discrimination. Therefore, I urge adoption of the amendment.

Mr. SYMINGTON. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Missouri.

Mr. SYMINGTON. Mr. Chairman, I am pleased to cosponsor with Mr. Heinz this very important employee protection amendment. I think it is significant to emphasize that we are not initiating a new concept with the amendment, but rather we are extending to workers affected by the act the same protection against employer retribution that is given to workers under the Federal Water Pollution Control Act and the Occupational Safety and Health Act.

As has been explained, the amendment is designated to protect employees who have been discharged or discriminated against for their actions in seeing to it that the act is implemented. It establishes a procedure for these employees to seek remedy through the Department of Labor.

An important improvement that the amendment makes over existing statutes, however, has to do with settlements reached before the formal procedure is carried through all the way. The amendment requires that any such settlement cannot be made without the participation and consent of the employee involved.

This addition dealing with settlements is important because the Labor Department has found, in the cases it has been involved with thus far, that as the cases near the final steps of the machinery there is a tendency for settlements to be entered into. It is important that we guarantee by statute that the employee's interests not be compromised in these situations.

I would also like to point out that we are not just engaging ourselves with academics with this amendment. The similar provisions which now exist elsewhere are indeed being used. Under the Water Pollution Act provision, some 17 cases are now being actively pro-

cessed. Under the OSHA provision, the Solicitor's office has given the go-ahead to process 24 cases. In addition to these 24, 7 cases have already been settled prior to completion of the formal procedure.

I think it is plain, then, that we are dealing with a very real problem with which workers are faced. The amendment provides an equitable and efficient procedure for assuring workers that they will receive help in dealing with the problem. Therefore, I urge adoption of the amendment.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I have been looking over the amendment offered by the gentleman from Pennsylvania, and I am very happy to say that so far as I am concerned, and so far as the chairman of the subcommittee is concerned, we accept the amendment on this side.

Mr. HEINZ. Mr. Chairman, I thank the chairman of the committee.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I am pleased to say we will accept the gentleman's amendment.

Mr. HEINZ. Mr. Chairman, I thank the gentleman from Kentucky.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Heinz).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

"INTERNATIONAL AGREEMENTS

"SEC. 1449. For the purpose of protecting drinking water in the States from contamination by contaminants from sources outside the jurisdiction of the States and the United States, the President shall—

"(1) seek to negotiate multilateral treaties, conventions, resolutions, or other agreements and seek to formulate, present, and support appropriate proposals at the United Nations and other appropriate international entities, and

"(2) seek to implement and enforce existing treaties and agreements to which the United States is a party or signatory and which may serve to provide such protection."

Mr. GROSS. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Iowa (Mr. Gross) reserves a point of order against the amendment.

The Chair recognizes the gentleman from Ohio (Mr. Vanik).

Mr. VANIK. Mr. Chairman, this amendment to the Safe Drinking Water Act is a noncontroversial proposal. It entails the expenditure of no additional money.

In the committee's report, it is pointed out that Government's consideration of drinking water supplies cannot stop at a political boundary; water tables and rivers know no State or local boundaries.

But, Mr. Chairman, just as water supplies do not respect State boundaries, neither do they respect international boundaries. The most

obvious example of this is the Great Lakes system. Tens of millions of Canadians and Americans depend on the Great Lakes for their drinking water. Yet each day millions of tons of domestic wastes and chemical pollution are dumped into the lakes. Despite this potentially dangerous situation, there is an amazing lack of Canadian-American consultation over what each country is doing to the waters that the other country may be relying on for drinking supplies.

My amendment is meant to overcome this international void. It provides that the President shall attempt to negotiate treaties or agreements with our neighbors to protect and sustain our mutual drinking water supplies and to implement and enforce any existing agreements that would serve the same ends.

Although a good amount of attention has been given to the water quality problems of the Great Lakes, not enough has really been accomplished. My amendment seeks to help reverse this situation.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Iowa insist on this point of order?

Mr. GROSS. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized on his point of order.

Mr. GROSS. Mr. Chairman, the amendment provides:

> For the purpose of protecting drinking water in the States from contamination by contaminants from sources outside the jurisdiction of the States and the United States, the President shall—
>
> Seek to negotiate multilateral treaties, conventions, resolutions, or other agreements and seek to formulate, present, and support appropriate proposals at the United Nations and other appropriate international entities, and
>
> Seek to implement and enforce existing treaties and agreements to which the United States is a party or signatory and which may serve to provide such protection.

Mr. Chairman, it is my contention that this amendment goes far beyond the scope of this legislation. There is no provision in this legislation, as far as I can see, for invlovement in international treaties or agreements and no funds authorized in the wording of the bill for that purpose.

In my opinion, the amendment, Mr. Chairman, goes beyond the scope of this legislation.

The CHAIRMAN. Does the gentleman from Ohio wish to speak on the point of order?

Mr. VANIK. I do, Mr. Chairman.

In response to the point of order that is made by my distinguished colleague, the gentleman from Iowa, I want to point out that this amendment does not provide for any appropriation of funds. It merely requests that the President explore the possibilities of working out conventions and agreements with Canada on drinking water standards.

I do not know how else we can achieve the same standards on the Great Lakes for the millions of Americans who depend on the Great Lakes for their water supplies, if we cannot work this out in some way by agreement with respect to a mutuality of standards between the United States and the Government of Canada.

We cannot compel the Canadians to do anything. Our statutes have no effect, and I think that if we are going to achieve a better quality

90-224 O - 82 - 44

water, if we are going to maintain the standards proposed by this legislation for drinking water for those people who must depend on the Great Lakes in the nations that are involved, it can only be achieved by agreements and treaties and by conventions with the Government of Canada.

I do not think the amendment expands anything under this act. It deals with the question of drinking water for the millions of Americans around the Great Lakes who must depend solely on the Great Lakes as a source of supply.

The CHAIRMAN (Mr. Nichols). The Chair is prepared to rule on the point of order.

The Chairman advises the gentleman from Ohio that the subject of international agreements is not within the scope of the bill and that the subject of the amendment comes under the jurisdiction of another committee of the House; namely, the Committee on Foreign Affairs.

Therefore, the amendment is not germane and the Chair must sustain the point of order raised by the gentleman from Iowa.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: Page 107, insert after line 18 the following:

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principle drinking water source for the area and which, if contaminated, could create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone."

Mr. GONZALEZ. Mr. Chairman, this amendment, a copy of which I sent to the distinguished chairman of the subcommittee something over a month ago, was one that I was hopeful would receive the welcome acceptance of both sides of the aisle, as far as the managers are concerned, because I cannot see anything but the highest consonance with the main purposes as stated by the managers for this legislation, which is the protection of communities in their sources and right to good, healthy, potable, acceptable drinking water.

My amendment simply says that where you have a community that is dependent for its water source, its principle source or exclusive source of drinking water in an aquifer—and this is true in the case of my own hometown of San Antonio—then if the administrator discovers that Federal funds are going into any particular purposes which would endanger that source of water, that he shall determine, and so does by publication in the Register, and after publication no commitment for Federal financial assistance would be entered into unless and until it is determined that no such dangerous impact exists.

I see absolutely nothing that is in contradiction with the intense desire on our part to insure that all of these districts, such as mine, even though perhaps it is a very unique situation in the country, but, nevertheless a very realistic one, with the adoption of this amendment.

As I say, we receive our complete water supply from an aquifer known as the Edwards Aquifer. The Edwards Aquifer covers several counties; it extends beyond our own immediate counties, and it has been the source of water in San Antonio, the source of pure, sweet, artesian well water. So the Members can see that protection of this rechargeable zone, which is the principal source of the Edwards Aquifer, is essential in order to prevent possible contamination of the water, as in fact that danger now exists.

The problem is that the city of San Antonio is growing rapidly. There are developers who are anxious to drill into the aquifer and develop their extensions willy-nilly, without regard to possible pollution to the aquifer.

Unfortunately, our State laws are very weak. In fact, I am engaged in an intense struggle at this time because of a little-publicized statute passed by the legislature about 4 years ago that makes it possible to do what I last read was possible in Europe in the old rotten-borough district of England. The English abolished the rotten-borough concept in 1830. We have had this reborn in Texas, unfortunately, and some of us are trying to do something to remedy it.

Meanwhile, there are at least a couple of developers who are unconscionable predators, and who are oblivious to the danger to the basic water supply in our community, and they are looking to Federal funds to carry out their projects. My amendment would say that we will not allow this.

Mr. Chairman, I am hopeful that this amendment will be approved. I did not push after I wrote my letter to the distinguished chairman of the subcommittee because we had a recess, but I am presenting it this afternoon in good faith and asking the Members to consider this very unique situation in the case of the City of San Antonio.

Mr. Chairman, I yield back the balance of my time.

Mr. STAGGERS. Mr. Chairman, I rise, reluctantly in a way, because it is a good amendment, but it does something that we have been trying to avoid, to require the Federal Government, over State government opposition to come in and say, "You cannot build this building because maybe it will contaminate the drinking water" when the local authorities have said that it will not.

I do believe, however, that the amendment is worthwhile because I can understand where there is only one source of supply, as the gentleman said, for several counties, that it would not be wise for any federally aided building to be allowed to come in. I cannot conceive of many situations in which this could occur, but it could conceivably.

Mr. CARTER. Mr. Chairman, I move to strike the last word. I just wish to say that I am in sympathy with the distinguished gentleman from Texas. I think he gave an excellent dissertation on his purpose to supply the city of San Antonio with pure, sweet tasting water. I know of nothing better.

I agree with the chairman that this might be more Federal intervention than we would want in this case, but, personally, I just cannot be in favor of the amendment.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

I will ask the chairman, What does this do for San Antonio that it does not do for Waterloo, Iowa?

Mr. STAGGERS. If the gentleman will yield, not a thing.

Mr. GROSS. This provision would be applied evenhandedly across the board to all sections and areas of the country; is that right?

Mr. STAGGERS. That is right. The gentleman does not limit the applicability of his amendment to any particular area of the country.

Mr. GROSS. I just did not want another example of the bill recently approved by the House which provides for the spending of $14 million to relocate railroad tracks and a grade crossing in Gary, Ind., and nowhere else. I just do not want another one of those special privilege deals enacted today.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Gonzalez).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pickle: Page 124, line 4, strike out "$10,000" and insert in lieu thereof "$50,000"; and in line 5 of that page strike out "$10,000,000" and insert in lieu thereof "$50,000,000".

Mr. PICKLE. Mr. Chairman, the amendment seeks to increase the amount of money in the guaranteed loan program. It does not increase the authorization of funds in this bill at all. As a practical matter when these small communities attempt to drill a well or put in a new system to meet these criteria or standards they are finding it costs a great deal of money. We no longer have the situation where a small community can drill a well or put in a system for $10,000 as shown in this particular bill. Water engineers tell us that just to get in business today will cost $30,000 or $40,000 or $50,000 as a starter.

As a practical matter the sums mentioned in this bill on page 124 in my judgment are not sufficient, so this amendment simply raises the amount that could be guaranteed in any individual system from $10,000 up to $50,000, and in the total aggregate that amount would be also increased.

I think it is a practical amendment. The communities simply cannot get into this business unless they can get this kind of guaranteed loan program. This does not increase the money or the authorization but rather the guaranteed loan aspect. I hope the committee will accept the amendment.

Mr. STAGGERS. Mr. Chairman, in response to the gentleman from Texas, I will say I think his intention to increase loan guarantee authority in the bill is certainly worthwhile. I understand this is not an appropriation and this is simply to provide that the communities can receive these higher guaranteed loans.

Mr. PICKLE. That is correct.

Mr. STAGGERS. I think the amendment is worthwhile and deserving of the support of the House.

Mr. PICKLE. Under this bill it must also be shown they cannot get more funds from any other source.

Mr. CARTER. Mr. Chairman, we have no objection here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Pickle).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RUPPE

Mr. RUPPE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ruppe: Page 132, line 18, strike out the quotation marks.

Page 132, insert after line 18 the following:

"EQUITABLE RELIEF

"SEC. 1449. (a)(1) Except as otherwise provided in paragraph (2), in any action which is commenced by (or at the request of) the Administrator and which requests equitable relief for the purpose of assuring safe drinking water, if a party shows that a defendant in such action is discharging or emitting any substance in violation of Federal law (or any State law which is enforceable under Federal law) and that such discharge or emission presents or contributes to a public health risk, the court shall grant such equitable relief as may be necessary promptly to assure that such discharge or emission does not present or contribute to such risk.

"(2) A court is not required by this section to grant equitable relief with respect to a discharge or emission if the person who is discharging or emitting such substance demonstrates that—

"(A) the public health risk does not exist; or

"(B) it would be arbitrary or capricious to grant such relief (taking into account technological and economic considerations, size of population at risk, and availability of alternative sources of drinking water).

"(b) Nothing in this section shall be construed to have the effect of limiting any other provision of law which requires or authorizes any court to prohibit or limit any discharge or emission.

"(c) To the extent this system would apply, it shall apply in all proceedings pending at the time of its enactment, unless a court determines that its application in such a pending proceeding would prejudice the rights of a party.

"(d) As used in this section:

"(1) The term 'discharging or emitting' includes disseminating, dispersing, and injecting, and includes causing to discharge, emit, disseminate, disperse, or inject.

"(2) The term 'public health risk' means a risk of causing death, serious illness or disease, or irreparable physical harm to persons (whether such illness, disease, or harm is imminent or preceded by a latent period) unless such risk is negligible."

POINT OF ORDER

Mr. BROYHILL of North Carolina. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I make a point of order against the amendment, that the amendment is not germane to the bill. The bill provides the requirement that the Administrator of EPA will prescribe national primary drinking water regulations. Also, it has provisions in it to provide for State enforcement of these national primary drinking water regulations and also sets up certain oversight by the Administrator in case the States fail to adopt or implement these standards.

Mr. Chairman, this amendment deals with discharge of pollutants into a stream. The bill has enough provisions dealing with this discharge of pollutants. The legislation deals only with water treatment in order to comply with the standards that are set up as a result of the bill and the enforcement of these standards. This, again, is realistically an amendment to the Federal Water Pollution Control Act.

Since it does introduce new matter which is not otherwise dealt with in this registration, I make the point of order that it is not germane to the bill.

The CHAIRMAN. Does the gentleman from Michigan care to respond to the point of order?

Mr. RUPPE. Yes, Mr. Chairman.

First of all, in response to the question of germaneness, I would like to make the following four points:

The major bill deals with the issue of safe drinking water, and that is exactly the thrust of the amendment.

The amendment deals with the possible health hazards connected with the drinking of water from a raw water source. There are many references to raw water sources in the bill—it is not limited to solely water systems. The following is a list of such references:

First. **Section 1401(1)(D)(i)**—page 65, line 25 through page 66, line 2—"Water which may be taken into the system" can be taken from raw water sources.

Second. **Part C [Secs. 1421–1424]** dealing with underground sources of drinking water. Such underground sources are raw water sources.

Third. **Section 1442(a)(1)(C)**—page 114, line 12—This subsection directly refers to research on new methods of treating raw water.

The amendment deals with enforcement proceedings in which the Administrator of the Environmental Protection Agency is involved Similar provisions are found in the Safe Drinking Water Act in **sections 1414, 1423, 1423,** and **1431.**

Section 4 of the bill amends the Federal Food, Drug, and Cosmetic Act dealing with bottled drinking water. This clearly demonstrates that the committee was dealing with drinking water, in general, as opposed to just water systems.

Mr. Chairman, for these reasons I feel that the amendment is, indeed, germane.

Mr. BROYHILL of North Carolina. Mr. Chairman, I would like to be heard further on the point of order.

Since it has been agreed that the amendment deals with emissions and discharges into streams and since the amendment deals with that and that the bill has nothing whatever to do with that subject matter and that is the subject of jurisdiction of another committee. I maintain it is not germane to this legislation, or to the legislative jurisdiction of the committee.

Mr. HARSHA. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HARSHA. Mr. Chairman, I would just like to reemphasize the point made by the distinguished gentleman from North Carolina (Mr. Broyhill), that this clearly deals with the discharge and emission into the navigable waters of the country, and is under the juris-

diction of the Federal Water Pollution Control Act and amendments which we adopted in 1972. It has nothing to do with the language of the bill presently being considered by the Committee; nor does the Committee on Interstate and Foreign Commerce have any jurisdiction over water pollution. That is within the sole jurisdiction of the Committee on Public Works. To attempt to amend that law by this means is not germane nor within the jurisdiction of this legislation.

Mr. JONES of Alabama. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Alabama is recognized.

Mr. JONES of Alabama. Mr. Chairman, I would like to be heard on the point of order. The proposition that the gentleman is making certainly is not consonant with the Water Pollution Act of 1972? I do not know what his emission standards would accomplish over and beyond that which is contained in existing law.

If it places a greater burden or accelerates the demand of local communities to qualify under the provisions of his amendment, then we would violate all the principles and assets that have been accumulated with the Water Quality Act.

Therefore, I think the proposition he presents to the committee is beyond the scope of the bill which we have before us at the present time.

The CHAIRMAN. The Chair is prepared to rule.

In the opinion of the Chair, the amendment is limited in scope to the question of equitable relief to assure safe drinking water, and does not go to the broader question of water quality generally. The bill goes to the question of contamination of drinking water by any source, including injections of contaminants into underground water. Thus an amendment to provide a remedy which is limited to the control of contamination of drinking water sources is germane to the bill.

For that reason, the Chair must overrule the point or order.

The gentleman from Michigan is recognized for 5 minutes in support of his amendment.

Mr. RUPPE. Mr. Chairman, the importance—and indeed the sanctity—of human health must always be one of our paramount considerations, and certainly that is one of the reasons I would like to thank the authors of the bill and members of the committee today for the legislation we have before us, for we, as U.S. Representatives, have a never-ending obligation to the American people—an unspoken oath, if you will, which dedicates to us the proposition that the U.S. Congress will be in the forefront of the battle to fight dangerous diseases and to promote human health. We today have an opportunity to continue in this tradition.

I therefore propose an amendment which states that when an action in equity is brought to assure safe drinking water, which action is initiated at the request of the administrator of the Environment Protection Agency, a showing by a party that a defendant is discharging or emitting a substance in violation of Federal law which presents a threat to public health, or which contributes to such a threat, a court shall grant equitable relief requiring prompt abatement.

A court is not so required to grant that equitable relief on a finding that a health threat does not exist or that it is negligible, or that

such action by a court would be capricious or arbitrary. Guidelines are provided such as physical and economic impact, the size of the population at risk, and the availability of alternate sources of drinking water. While it expressly states that the amendment is applicable to proceedings pending at the time of enactment, it shall in no way prejudice the rights of such a party.

The onus should not be on the Federal Government, to prove that a health hazard does indeed exist. The onus should be on the other party to demonstrate that its action does not constitute a possible health hazard. This is not an environmental issue, as such. It is a human issue which recognizes the sanctity of human health and human life. If we have not done our job in the past by providing adequate mechanisms to halt a possible health threat, we must do so now. We must act decisively. We must stop a present potential health hazard, and we must insure that future situations do not occur.

I am specifically referring to the operation of and litigation surrounding the Reserve Mining Co., which is engaged in the exploration and mining for iron ore at Silver Bay, Minn. A byproduct of their work is taconite tailings which contain a certain asbestos fiber. This operation has been in existence since the mid-1950's, and today Reserve Mining is depositing 67,000 tons of these tailings daily into Lake Superior.

The litigation surrounding this dumping has been long and expensive. The core of the controversy is an effort by the U.S. Government, through the Environmental Protection Agency and the Department of Justice, to force Reserve to establish an environmentally acceptable on-land disposal system. I will not dwell on all the species of the case, but it has been a course of litigation marred, in my opinion, by delaying and dilatory tactics aimed at avoiding a viable and hopefully unevitable result. These legal maneuvers have personally frustrated me as an observer, and as the representative of the congressional district with the largest amount of coastline on Lake Superior and, selfishly, as a personal consumer of Lake Superior water.

Many of us in Congress representing Great Lakes States and, specifically, Michigan, Wisconsin, and Minnesota, wondered what we could do to alleviate the problem. We had passed laws prohibiting the dumping of hazardous substances into waters; we have writtten to and pressed the Department of Justice and the Environmental Protection Agency to take effective legal action. We have acted on the assumption that Congress had passed adequate laws to deal with the situation and these laws only had to be enforced. The act of one courageous district court judge told us we were correct, but his ruling was overturned by a higher court. The Supreme Court, though, has not agreed to further review the matter, so despite the fact that our laws are adequate, it is incumbent upon us to respect our courts, and, therefore, we must take further action.

Last spring, the Department of Justice, on behalf of the EPA, and with the intervention of the States of Michigan, Minnesota, and Wisconsin, as well as various environmental groups, asked the District Court for the District of Minnesota to enjoin Reserve Mining from further discharging into Lake Superior.

Judge Miles Lord, on April 20, so ordered an injunction in what many of us thought to be a momentous decision. He recognized that

fibers, already been found in the drinking water of Duluth, Minn., were similar if not identical morphologically and chemically to certain asbestos, exposure to which can produce asbestosis, mesothelioma, and cancer of the lungs, gastrointestinal tract, and larynx. He made a finding that—

> The discharge into the water substantially endangers the health of the people who produce their drinking water from the western arm of Lake Superior including the communities of Beaver Bay, Two Harbors, Cloquet, Duluth, and Superior, Wisconsin.

I would add a personal note at this point: that the headlines of the Marquette, Mich., Mining Journal, of Friday, November 8, 1974, read, "Fibers Found in City Water." As the crow flies, Marquette is over 200 miles from Silver Bay.

To return to Judge Lord's opinion, he recognized that the exact scope of possible harm was uncertain since the true physical effects are often not known until 15 to 20 years following the original exposure to the fibers. He also recognized the economic effects a temporary or permanent injunction, closing down the mine, could have on Silver Bay and surrounding communities. However, in blistering language, Judge Lord condemned Reserve for putting him in the position he found himself, but, as he stated:

> The Court has no other alternative but to order an immediate halt to the discharge which threatens the lives of thousands.

Many of us were relieved and thankful for a courageous judge named Miles Lord. If you will, to us he was the John Sirica of the Great Lakes. But our feelings were shortlived; for on June 4, the Eighth Circuit Court of Appeals lifted the injunction. Where Judge Lord said: "This court cannot honor profit over human life," the Court of Appeals said: "Judge Lord apparently took the position that all uncertainties should be resolved in favor of health safety." They maintained that what Judge Lord had done was to make a legislative determination, not a judicial one. Because no demonstrable real hazard had been proven, soon thereafter, the Reserve Mining Co. again started to deposit 67,000 tons of taconite tailings daily into Lake Superior, and we were once again faced with this ongoing possible threat to human health and to human life.

Since the Circuit Court of Appeals told us in Congress we had not established the requisite legislative policy, we must do that and do it as soon as possible. I have great faith in the legal abilities of the attorneys of the EPA and the Department of Justice, and I feel certain that they will do everything in their power to force Reserve to an agreement on an acceptable onland disposal site. But it is obvious to me that we must give them one further tool which will be applicable not only to Reserve Mining Co., but to future Reserve Mining Companies. The Safe Drinking Water Act provides us with the perfe opportunity.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. Yes, I yield to the gentleman.

Mr. JONES of Alabama. The gentleman is discussing the status of what he is advocating. It is now pending in the Circuit Court of Appeals.

Mr. RUPPE. It has been decided in the Circuit Court of Appeals.

Mr. JONES of Alabama. It has been decided one time, but it is again pending before the Circuit Court of Appeals.

Mr. RUPPE. It might well be. But the Circuit Court has taken a very hostile, and, in my opinion, a somewhat arrogant viewpoint on the particular matter.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. The question is now pending before the Circuit Court of Appeals; that is a fact, is it not?

Mr. RUPPE. Well, the decision was made. I would like to point out to the Members, if I have the time, the statement over on the Senate side made by the Assistant Administrator for Enforcement and General Counsel for EPA, where he says:

> In our view, the appellate court's preliminary ruling establishes an overly restrictive burden for the Government in cases such as Reserve Mining, where scientific knowledge is not yet complete but there are significant indications of adverse health impacts.

Mr. OBEY. I would like to join my colleague and commend him for his effort and support him in his amendment. I commend him for his leadership on it.

I personally think it is outrageous that in my district, for instance, and communities like Superior and Ashland, they have no way of securing clean water.

I agree with the gentleman on his description of the Circuit Court of Appeals decision on the matter and his comments on Judge Lord.

I think this amendment is needed. I think the gentleman has performed a public service, and I hope the amendment is agreed to.

Mr. RUPPE. I thank the gentleman. The judge said he thought the violation did exist, and yet nothing has been done, and the bureaucratic procedures have gone on for years.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I wish to commend the gentleman from Michigan for offering this amendment. It is an excellent amendment.

This amendment attacks the problems concerning the very source of water which supplies the people in the northern Michigan area and in the upper Great Lakes Basin.

This would help us bring to a halt the outrageous actions which have taken place. These actions are the most outrageous, perpetrated by the most contumacious and rapacious polluters of our Great Lakes, of any we have ever had to contend with. They are adamant in their efforts, which affect the quality of the water in the Great Lakes and upper Michigan area, and they are jeopardizing the health of the people from Michigan, and they are also jeopardizing the health and well being of all the people in the Great Lakes Basin.

Mr. Chairman, I commend the gentleman from Michigan for offering this amendment, and I urge that it is one that should be adopted.

Mr. RUPPE. Mr. Chairman, I thank the gentleman for his full support and for his strong efforts and contribution in this legislative area.

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to the amendment.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, as I understand it, this amendment has not been fully considered by the committee. Concerning the clean water bill, the Water Quality Act of 1972, in that conference we anticipated that there would have to be some changes made in the provisions of that bill.

So we in the next session are going to consider the complete administrative propositions that have been raised.

Consequently, it seems to me that this matter can be delayed until such time as we take on a comprehensive, long-range examination of the entire proposition of water quality. I hope that we do not go to these impulses of trying to legislate in such a fashion as has been proposed by this amendment.

Mr. Chairman, I hope the amendment will be withdrawn or not agreed to.

Mr. GOLDWATER. Mr. Chairman, I thank the distinguished gentleman from Alabama for his observations on this particular amendment. I rise in opposition to the amendment.

The gentleman from Michigan (Mr. Ruppe) mentioned or stressed the point that we have a responsibility in this Congress. We probably have many responsibilities, one of which is to insure that we do not infringe upon the rights of local government to take care of its own local needs.

It appears to me that, with this bill, in our efforts to insure clean drinking water, we may be infringing upon those rights of local government. But then to come along and in essence put the onus of proof upon the defendant or in essence upon local government is not only careless, but I think it is irresponsible and, in the last resort, an expensive proposition.

Mr. Chairman, I can appreciate very much the problem that Lake Superior is suffering under, as my friend, the gentleman from Michigan stated, with the current actions of Reserve Mining Co. However, I do not feel that this is the place nor the particular vehicle by which to rectify that situation, primarily because of the burden that it places upon every other municipality and every other State and local government, just to clean up one particular problem.

Throwing the onus of proof onto the defendant is obviously a complete reversal of one of the most basic and prized principles of Anglo Saxon law. Our Nation is founded in part on the principle of legal presumption of innocence until proven guilty, and we know how highly our forefathers valued that principle.

This is obviously a very serious problem which Lake Superior is suffering under. But it appears to me, in my opinion, that this is not the vehicle, to put the burden of proof on the defendant, jeopardizing the rights of others, and causing tremendous expense to local government.

I would suggest, Mr. Chairman, that the gentleman from Michigan go back to the drawing board and come up with another approach to resolving this very serious problem.

Mr. Chairman, I urge my colleagues to vote against the amendment.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Ohio.

Mr. HARSHA. Could the gentleman inform me as to whether or not any hearings were held on this particular amendment by the committee?

Mr. GOLDWATER. I am not a member of the subcommittee, but I am a member of the full committee.

To my knowledge, there were very few hearings held on the entire proposition; and to my knowledge, neither this amendment nor this problem was discussed in the subcommittee or in the full committee. Further to my knowledge, this is the first time that this has come to our attention. Obviously, it is a serious problem, but until we have had an opportunity to have a full hearing on it, this is not the time to take this up.

Mr. HARSHA. If the gentleman will yield further, this is obviously a very difficult issue to deal with. Certainly it should not be treated lightly. There should have been extensive hearings held on the subject matter of this particular amendment. I think it is of such import and has such ramifications——

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HARSHA. Continuing my statement, Mr. Chairman, this is of such import that there should very definitely have been detailed inquiry into the subject matter because the ramifications are so great, and it obviously is counterproductive or at least conflicts with the Water Pollution Control Act where this problem was dealt with at some length.

We just heard the new chairman of the Committee on Public Works indicate that we will deal with this matter in the Committee on Public Works.

To require a defendant to assume the burden of proof, as I understand this amendment does, to prove that his discharges do not cause any damage or injury is something that cannot possibly be done, it is utterly impossible. In other words, you are guilty until proven innocent. This is contrary to every rule of evidence of law, of the American way in fact. To go about legislating in this manner is just not the proper procedure, it denies all parties the right to be heard, to express their views, and to indicate to the committee all the problems an amendment of this kind raises, and I would urge the defeat of this amendment.

Mr. NELSON. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. NELSON. In the early debate on this bill, there was wide discussion dealing with the possibility that we were stepping out too far with Federal authority in various areas.

The committee conscientiously tried to recognize that hazard, that danger, and modified the bill so that we felt it could be passed.

Now we have added several amendments this afternoon. We think that maybe they are all right; we are not sure, but we think that maybe they are all right. However, we keep on adding more and

more amendments, and finally I think we are providing the hazards for the bill itself.

In this instance, I know a little bit about the Minnesota situation because I was one of the members of the State legislature way back there when the first taconite legislation was adopted.

I agree that something must be done in the State, and I think it will be done. However, here we are setting up a procedure that not only would apply to something we need to do in the Reserve mining case, but the criteria set up in here may go much further in other areas.

Therefore, we are going in the direction that we were cautioned about earlier in th talk that the gentleman from Ohio (Mr. Latta) made on the floor.

We are in this amendment extending authority beyond where we wanted to go in the whole bill to assure its passage.

I believe that this is a matter that should be treated separately and should not be in the safe drinking water bill.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I listened with interest to the remarks of some of my colleagues with regard to the amendment now pending before us. The only thing I can say is that I take some comfort from the fact that they are apparently talking about a totally different amendment than that which pends before us.

The amendment really is a very simple one. It has two parts. It says where there is a discharge of substances into the water which would adversely affect the health and well-being of people through their drinking water that that section is subject to abatement by injunction.

The second part says that if a risk to the public health through the drinking water does not exist then the judgment would not lie, or if it would be arbitrary or capricious to grand relief the judgment does not lie, and the court is not required to issue an injunction in those two instances.

What it says is that if the citizens of the upper peninsula of Michigan or Wisconsin, or Canada or Minnesota, find their health or well-being to be jeopardized that the court may consider and entertain an application for injunctive relief to abate it, because of the threat to the health and well-being.

My good friend, the gentleman from California (Mr. Goldwater) apparently did not have the right copy of the amendment, because the gentleman spoke on what appeared to be clearly a very different amendment.

My old friend, the gentleman from Alabama (Mr. Jones) talked about a totally different amendment than that which appears before us.

Anyone putting something in the water which jeopardizes the health and well-being of the people, such as carcinogens or cancer-producing substances that would jeopardize the health of people living many hundreds of miles away, that person ought to be subject to an injunctive process in court. That does not sound like an outrageous proposition to me.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my old friend from Texas.

Mr. ROBERTS. There is another point that should be brought out along with what the gentleman from Michigan is talking about, and that is

in reference to injection wells. We have more injection wells in Texas than there are in all of Michigan, Wisconsin, and Minnesota combined, and there have only been five failures in the total time that we have been doing injection wells, and that applies to steam injection and it applies to water injection, and it is subject to secondary recovery.

This amendment is an amendment that is entirely too broad and has nothing to do with the jurisdiction of this committee.

Mr. DINGELL. I very regretfully must disagree with my old friend, the gentleman from Texas (Mr. Roberts), because I do not find anything relating to injection wells or to the recovery of oil or secondary recovery.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I just want to point out very emphatically that this amendment is not intended by express provision or implication to weaken any existing provision of Federal law. It merely directs the courts to assure prompt abatement of a violation in a situation like Reserve Mining, where a threat to health was allowed to persist on economic grounds. The amendment is intended to establish the congressional finding of the paramount value of health protection. It is not intended—and this is made clear by subsectiton (b)—to require proof of a health hazard as a condition for prompt injunctive relief, or to limit any court's authority to grant such relief for purposes of protection of environmental or economic values. So I do not think that really applies.

Mr. DINGELL. I do not read anything in there about water injection into oil wells, or anything else. The hard fact of the matter is that we have had one of the most contumacious resistors to the laws of the United States, and I am rather surprised to find my friends from the Committee on Public Works appearing here in opposition to the amendment, because that is the law that come out of their committee. The Reserve Mining Co., to whom this amendment is directed, are the only taconite producers in the country that refuse to use either land recovery or land disposal. They are the only people that get this advantage to the detriment of almost every one of the other taconite producers.

Mr. JONES of Alabama. Mr. Chairman, if the gentleman will yield, there is a question now, which the judge indicated, the question is as to whether or not this contaminates or is a hazard.

Mr. DINGELL. Contaminates or is a hazard to the health and well-being. That strikes me as eminently good sense.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend, the gentleman from Wisconsin.

Mr. OBEY. Let me just point out that in the circuit court decision they said that the judge apparently took the position that all uncertainty should be resolved in favor of health and safety, but the court then went on to say the determination in favor of health and safety represents a political judgment.

All we are suggesting is that we take the court at face value and make that legislative judgment that we ought to resolve these doubts in favor of health.

Let me also point out that this House just approved 2 months ago a study in the Labor-HEW appropriation bill—an item to finance a 3-year study to determine what the exact effects are of asbestos in drinking water. I doubt that we would suggest that we ought to wait 3 years pending the outcome of that study before offland disposal is stopped.

Mr. DINGELL. I think the gentleman from Wisconsin takes an eminently sensible position. All this amendment does is to allow the people of Michigan, Wisconsin, and Minnesota to get into court to get the judicial relief the court said must be procured first through the action of the Congress, the legislative body. That is all it says.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

Asbestos fibers from an illegal discharge have been found in northern Michigan 200 miles from the site of that dumping. It is almost impossible to prove a health hazard with the scientific evidence available today to the EPA, but even EPA states very, very clearly that if there is a situation where the court determines that a health risk is evident, then that court should have the power to give injunctive relief to the people who have to drink the water in that area.

Mr. DINGELL. This is one of the few instances I have ever found where the citizens have shown that kind of peril.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

It is a little misleading in the statement that was made saying that the amendment says that the only thing anyone can do is go to court. This also puts a burden on the defendant that is contrary to any law.

Mr. DINGELL. I have been a lawyer for over 20 years, and I do not read anything in this amendment that says the burden of proof shifts. Maybe I am wrong. Maybe the gentleman has better eyes than I have, but nowhere in this amendment is there a shifting of the burden of proof. The burden of proof in this amendment still lies on the back of the person seeking injunctive relief.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my friend, the gentleman from Missouri.

Mr. RANDALL. I thank the gentleman for yielding.

The gentleman did make the comment, I believe, that this is directed at the Reserve Mining Co.

Mr. DINGELL. Let me say this. It is general legislation, but I can assure the gentleman from Missouri that we in Michigan are going to be able to look with some confidence on the fact that the courts are going to allow injunctive relief to bring the Reserve Mining Co.'s pollution of Lake Superior to a halt if this amendment is adopted.

Mr. RANDALL. In Missouri we are affected by this because this source of ore is used in our district. It is also true, I understand, that this matter is now in the court.

Mr. DINGELL. Let me just tell my friend, the gentleman from Missouri, that Reserve Mining can use onshore facilities for taconite wastes, and there will be no problem. That is what this amendment will do.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I just learned a short while ago the amendment would be offered, then just now I have discovered that it is really directed at Reserve Mining of Minnesota. Now it happens as a matter of fact that this mine affects other parts of the Middle West other than Minnesota, Michigan, or Wisconsin. It affects Missouri, and it does, because we have a plant which relies on this mine for about half of its ore. This amendment would shut down this mine for 3 or 4 years until a disposal facility is completed. This matter is now pending in court. The U.S. Circuit Court of Appeals has refused to order the closing of this mine. While it may take a little time I am reliably advised that this mine is ready and prepared to spend whatever may be necessary to comply with the specifications of the court.

It is inappropriate to consider this amendment at this time. There have been no hearings held on the effect nationwide of this amendment. We know we are suffering from inflation and may possibly be heading into a recession. I have just discovered that if this amendment is enacted, it could result in an immediate increase in unemployment of approximately 2,000 persons in the Kansas City area alone.

If this amendment is enacted it could cut off as much as 15 percent of the Nation's iron ore—and this includes ore that is needed if a plant in the Blue Valley of our district is to continue to operate. This country's iron ore reserves are dwindling as it is. Imports are being increased. But there is some bad news in that direction, because Venezuela has announced its intention to nationalize its ore reserve—to be used for their domestic steel production.

Mr. Chairman, I repeat Reserve Mining has agreed to work out a disposal arrangement under the supervision of the court which will cost $250 million—while the total worth of the remaining facility is only about $350 million.

The shutdown of Reserve would result in an immediate massive unemployment of between 7,000 and 8,000 workers. For my part, I firmly believe we cannot stand either an increase in the price of steel or more unemployment.

The amendment should be defeated.

Mr. OBEY. Mr. Chairman, if the gentleman will yield, let me ask the gentleman this question. He does not think we can stand any more increase in the price of steel. How much more cancer can we stand among those who are the helpless victims of this mining company across the State line? How much more risk should they have to take?

Mr. RANDALL. The gentleman raises an emotional question. It is speculative and conjectural whether cancer is caused by any effluent from this mine. But let me add there is nothing speculative about persons who are out of work and walking the streets. Let me say to the gentleman from Wisconsin such conditions are also very emotional.

Mr. Chairman, the gentleman from Michigan asked me to yield to him a minute ago. I will yield to him now.

Mr. RUPPE. Mr. Chairman, the gentleman referred to several discharges in the State of Missouri. Were they in violation or not in violation?

Mr. RANDALL. I was not referring to violations by any of our steel mills, but rather to their suffering a loss of supply of ore if the reserve mining were shut down.

Mr. RUPPE. Reserve for 10 years has absolutely refused to comply. They are not complying.

Mr. RANDALL. Well, it is my understanding they are now complying with the court order.

Mr. RUPPE. They are not complying. They have no permit. They are operating in violation of the law in discharging the taconite. That is my point.

Mr. RANDALL. But there is an agreement reached under the supervision of the court and there will be timely compliance.

Mr. RUPPE. No way.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Ruppe).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RUPPE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MURPHY OF ILLINOIS

Mr. MURPHY of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of Illinois: Page 108, line 2, strike out "or" and insert in lieu thereof "and".

Page 108, line 4, insert after the period the following: "To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking."

Mr. MURPHY of Illinois. Mr. Chairman. I would like to explain what this amendment does.

Mr. Chairman, recent reports of unsafe and potentially lethal drinking water have awakened the American people to the need for strict national health standards regarding our water supply. Consideration today of the Safe Drinking Water Act is therefore particularly timely.

One disturbing aspect of setting standards for safe drinking water is the fact that no conclusive data exists as to what levels of contaminants jeopardize the public and what amounts produce no adverse effects. I was pleased to note that the Safe Drinking Water Act recognizes this dilemma and provides that the National Academy of Sciences—NAS—begin studying this problem. The legislation authorizes NAS to identify contaminants known to be harmful but further instructs NAS to identify any which might have harmful effects.

Until the NAS report is finalized, however, the act provides that interim standards set by the EPA Administrator will be enforced. We cannot afford to wait months or years before a comprehensive plan is implemented. We must begin now.

We have the technology to get the answers we need. We have the financial and manpower resources at hand. If we fail to address ourselves to this problem at this time and risk discovering 5 or 10 years

90-224 O - 82 - 45

from now that we had our chance and blew it, there will be no rebuilding Americans' confidence in their Government.

This legislation recognizes that State and local authorities are capable of policing themselves but require the knowledge and the tools to do the job. I am proud of the recognition this problem has been given by my State of Illinois. Illinois has shown a willingness to set strict requirements for public and private drinking water supplies but, more importantly, my State has enforced these regulations.

I believe the primary responsibility for policing water supplies should rest with State and local authorities if States have proved their commitment and adherence to strict standards. I am introducing two amendments which recognize that a cooperative relationship between the Federal Government and the States is essential if we are to make any progress in our fight for safe drinking water. My amendments further recognize the detrimental effect unnecessary interference by the Federal Government can have on a State program. These amendments in no way tie the hands of the Federal Government to act, however, when the people are in imminent danger and State authorities are unwilling or unable to act to protect them.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Illinois (Mr. Annunzio).

Mr. ANNUNZIO. Mr. Chairman, I want to commend the gentleman from Illinois for his amendment and for the interest he is showing in this legislation. Also I would like to inform the membership that the Governor of our State, Governor Walker, has sent me a telegram informing me that he is in favor of H.R. 13002, the Safe Drinking Water Act. I commend my distinguished colleague, the gentleman from Illinois from Chicago, for introducing his amendment which will serve to strengthen this legislation.

Mr. MURPHY of Illinois. I thank the gentleman.

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Illinois.

Mr. GRAY. Mr. Chairman, I thank my friend for yielding.

I want to associate myself with his remarks and the amendments he will offer. I have received the following wire.

> Governor Dan Walker has asked me to convey to you his continued support for the Safe Drinking Water Act (HR 13002) which is expected to come before the House for a vote today.
>
> We think that the bill would be improved and strentghened by the inclusion of amendments which are being introduced.
>
> In any event, we hope you will vote for the bill.
>
> OLGA GREY,
> *Director, Washington Office,*
> *State of Illinois.*

Mr. Chairman, I am for the amendment and for the bill. I hope they both will be adopted.

Mr. MURPHY of Illinois. Members of the Committee, all this amendment does is affect the emergency powers in part D of the bill. **[Sec. 1431]**

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from West Virginia.

Mr. STAGGERS. After having read the amendment, I would be inclined to accept the amendment on this side.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. I ask the gentleman again to explain what the amendment does.

Mr. MURPHY of Illinois. I am about to, if I am given a chance. All the amendment does is affect the emergency powers for the Federal Administrator when he acts upon information that a contaminant is present in or likely to enter a public water stream and may present an imminent and substantial endangerment to the health of persons. It must also be clear that the area's State or local authorities have not acted to protect the health of such persons, and the Administrator may take such action as he deems necessary to protect the health of such persons.

My amendment requires the Administrator, where it is practical, in light of the imminent endangerment, to consult with State or local authorities in order to affirm the correctness of the information he is acting on and decide what further action he proposes to take. He must make certain that the information he has acted on is based on correct facts.

This amendment requires that the Federal Administrator consult with State and local authorities as to the emergency, what information it is based on, and what action he proposes to take, so that he can work hand in glove with the local and State authorities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Murphy).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF ILLINOIS

Mr. MURPHY of Illinois. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. Murphy of Illinois: Page 124, line 23, strike out "The" and insert in lieu thereof "(1) Except as provided in paragraph (2), the".

Page 125, insert after line 17 the following:

"(2) No entry may be made under the first sentence of paragraph (1) in any State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry."

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Florida.

Mr. ROGERS. I think the committee would expect this to be done, anyway, and to have this spelled out is certainly acceptable on this side of the aisle without question.

Mr. MURPHY of Illinois. Mr. Chairman, if I may explain to the gentleman from North Carolina (Mr. Broyhill), this amendment provides that the Administrator notify the State agency which would have

control of a particular water system or agency that comes into question or violation, so that all interested parties can sit down and determine what action should be taken. The amendment provides that the State agency first be consulted to determine whether or not the agency could move on it before action by the Federal agency becomes necessary.

Mr. BROYHILL of North Carolina. Mr. Chairman, if the gentleman will yield further, we have no objection to the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Murphy).

The amendment was agreed to.

* * * * * * *

Mr. GROSS. Mr. Chairman, I would like to get some information from either the gentleman from West Virginia (Mr. Staggers) or the gentleman from Florida (Mr. Rogers) as to the cost of this legislation.

The supplemental report accompanying the bill states that the 5-year cost is, I believe, $336,500,000. The report itself states a 5-year cost of some $352,100,000. What is the cost of this legislation?

Mr. STAGGERS. Mr. Chairman, if the gentleman will yield, I am informed that House rules require me to get the 5-year projection on this. We are only passing this legislation for 3 years, and the fact is that we have $156 million.

Mr. GROSS. What is the 3-year cost, then?

Mr. STAGGERS. One hundred and fifty-six million dollars. The rules require us to give a 5-year projection, but we are only authorizing for 3 years.

Mr. GROSS. But the legislation does call for a 5-year projection; is that right?

Mr. STAGGERS. No; the authorization is only for 3 years, but the rules of the House require a 5-year projection.

Mr. GROSS. What is the gentleman saying, that it is a 5-year projection but the committee is only authorizing 3 years?

Mr. STAGGERS. I think the language is very clear. We are only authorizing for 3 years. At the end of 3 years the bill will have to either come up for consideration again, or it dies.

Mr. GROSS. The $156 million is for 3 years, is that correct?

Mr. STAGGERS. That is correct.

Mr. GROSS. Why did the gentleman's committee change from the figures contained in both reports, the supplemental and the regular report accompanying the bill?

Mr. STAGGERS. My counsel says that it is a typographical error. I do not understand that. What did the gentleman say was the report on this?

Mr. GROSS. The supplemental report accompanying the bill sets forth a cost estimate of $336,500,000, whereas the report sets forth—the report accompanying the bill of the date of July 10, 1974, sets forth a cost of $352,100,000.

Mr. STAGGERS. According to my counsel, it is a typographical error. I do not understand that but I would say to the gentleman that we are only authorizing $156 million in the bill for the 3-year period. It is spelled out in the language of the bill.

Mr. GROSS. Can these two be typographical errors, this supplemental report which bears the date of August 15, 1974, and the report accompanying the bill which bears the date of July 10, 1974?

Mr. STAGGERS. The supplemental report, I am informed, is correct.

Mr. GROSS. Well, that is $336,500,000?

Mr. STAGGERS. That is the projection for 5 years, I understand.

Mr. GROSS. That is the projected cost for 5 years. Where does the gentleman propose to get the money?

Mr. STAGGERS. When we add these up across here, it does not come up with that amount, but there is some confusion in the matter. I would like to say to the gentleman that the correct figure is $156 million for 3 years being authorized in the bill.

Mr. GROSS. This is not a very propitious time for multimillion-dollar mistakes to be made.

Mr. STAGGERS. This report is not legislation. The bill stipulates $156 million.

Mr. GROSS. This country is in serious financial trouble.

Mr. STAGGERS. I would agree with the gentleman very much.

Mr. GROSS. I have not yet heard where the gentleman proposes to get the $156 million. It is budgeted?

Mr. STAGGERS. Well, I would not say whether it is budgeted or not. I do not know.

Mr. GROSS. The answer is that it is not budgeted.

Mr. STAGGERS. I am not so sure about that, but I would say to the gentleman that the great demand across America for the bill is rather urgent. We are representatives of the people, and we ought to act here. I think time demands that we act now to get the bill out.

Mr. GROSS. Is this bill being sought by the Bureau of the Budget or any agency in the executive branch of the Government except the EPA?

Mr. STAGGERS. I am sure that the Bureau of the Budget is not checking it, but the different agencies did appear.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gude:
On page 116, after line 11, add the following new paragraph (9):
"(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate."

Mr. GUDE. Mr. Chairman, this amendment is offered in light of the recent revelations of possible carcinogens in the nations water supply, particularly in certain sections of the country.

The EPA has begun an investigation of this matter, but I think we should inject a note of urgency in reference to this investigation.

Therefore, this amendment provides that EPA will report back to Congress 6 months after the enactment of this title as to the initial results of their study; such a report is much needed by the American people particularly in metropolitan areas where the carcinogens have been reported.

I urge the adoption of this amendment in order that we expedite the scientific research in this critical area.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

As the gentleman knows, there has been national publicity recently to a study about the possible implication of cancer-causing substances in the Mississippi River water and about the possible complications that are caused by the chlorination and chlorine and disinfection by the water treatment plants for the drinking water supply.

Of course, in our geographical position, at almost the mouth of the Mississippi River, it is really vitally important to our region that we have controls enforced on the toxic organic compounds that come into the river from the industrial and municipal discharges, from runoffs from agricultural regions, from accidents on the river, and from chemical spills on the river. I would like to know if the language of the gentleman's amendment which says, "public water supplies and drinking water sources," does this cover contaminant discharges into surface raw water supplies?

Mr. GUDE. Certainly all of the water that flows into the water supplies would be subject to an investigation by the EPA, and it would seem to me that they would have a priority for areas of the country where the greatest number of contaminants are already known to be present in the water supply.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield further?

Mr. GUDE. Yes, indeed.

Mrs. BOGGS. Mr. Chairman, after we are assured the underground water supply is protected in the bill, would the gentleman also foresee that following the studies, controls over the surface water supplies could be applied also?

Mr. GUDE. I would think so.

Mrs. BOGGS. And could we be assured that priority would be given to the regions of the country which are in the most desperate need of the study?

Mr. GUDE. Mr. Chairman, there is no doubt that water in certain regions of the country leave a higher priority than that of other regions. Areas served by fresh and pure mountain water have a less critical problem then those in Louisiana which receive water from the Mississippi or areas around the Great Lakes, they would have top priority.

Mrs. BOGGS. Mr. Chairman, I thank the gentleman, and I commend him for offering his amendment.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, while I am, of course, disappointed with the failure of my amendment. I would say to the gentleman that such failure should carry absolutely no inference that the Congress, in the act we are presently considering has not always placed the utmost importance on the question of human health. The Safe Drinking Water Act will insure our public drinking water systems meet the highest health standards. The failure of my amendment to pass should in no way detract from the paramount emphasis of this bill on the protection of public health. I congratulate the gentleman for his fine and exemplary work.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I have been looking at the amendment and I have been studying it. I think it is a reasonable amendment, and I believe that a study should be made of these areas where we know or have reason to believe there are dangerous elements getting into the water.

They will report back in 6 months for further review or for any direct action that the Administrator deems necessary. I think it is a reasonable request, and we would be willing to accept the amendment on this side.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Minnesota.

Mr. NELSEN. I am just wondering, Mr. Chairman, about this: It says the Administrator shall conduct the study.

Now, in the provisions of the bill, we were trying very carefully to get the States involved.

Are we in this case going with the Administrator and in other cases in the bill are we going with the States to make the study?

Mr. Chairman, I would endorse the objective which the gentleman from Maryland (Mr. Gude) seeks. However, I wonder if the procedure here should be in line with the procedure as provided in the bill. I merely ask the question for clarification.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would think that the study is in correlation with the bill, and certainly it is in line with what we intended all the way along. We will use the Academy of Science, I am sure, to make the study.

Certainly I think it is in complete line with what we intended the bill to accomplish.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Gude).

The amendment was agreed to.

Mr. KAZEN. Mr. Chairman, what we are trying to do in this bill is very laudable, as everybody agrees. However, we have had experience with this type of broad-based, universal standard type of a bill.

If the Members will recall the Water Pollution Control Act that we passed, in 1972 we set some high standards for sewage disposal. At the same time we appropriated money to help cities and communities for constructing or repairing this in order to meet those high standards.

Well, we all know what happened. The President impounded the funds. Yet EPA has kept the high standards for waste disposal.

Now we have run into this difficulty: The various communities in my district which have contacted me cannot comply with the regulations because they do not have the money to build their plants.

The same thing is going to happen here. We agree that we ought to have research, we agree that we ought to have the purest water that we can have, and we agree that the health of the people of this Nation should be paramount in our interest. However, all of this is not going to be worth the paper that this bill is written on if we do not make

provisions for the various communities to comply with the standards that EPA sets forth. It is just that simple.

Somewhere down the line those of us who represent small communities, as I do—rural areas where we have communities of 500 people, 900 people, 1,000 people, and 2,000 people—will find out that the problem is financial. If we have to tell those communities that their plants are not up to meeting these standards for drinking water, what are we going to do? We are going to shut them down or we are going to let them continue to use contaminated water.

Mr. Chairman, the solution would obviously be to provide some funds for these cities that do not have the financial ability to improve their plants, in order to meet the standards that EPA will set, and we know this bill will direct that those standards be met.

This is the biggest fallacy that I see in this bill. Regardless of what we say about exemptions, somewhere down the line within the next 7 years we are going to be faced with this problem. Water plants, considering what the cost is today and what it is going to be in the future, are not going to be cheap things to build. Yet, the very health of our Nation is dependent upon the type of water that we drink.

This bill will not accomplish its goal because of this glaring deficiency.

For that reason, Mr. Chairman, I am going to vote against this bill.

AMENDMENTS OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer a series of amendments and I ask unanimous consent that they may be considered en bloc since they are to correct certain typographical errors.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Staggers: Page 71, line 5, strike out "paragraph (2)" and insert in lieu thereof "paragraph (1)(B)".

Page 75, line 16, strike out "during" and insert in lieu thereof "in the case of"; and in line 19, insert after "(B)" the following; "in the case of the period".

Page 76, line 9, strike out "meets" and insert in lieu thereof "meet"; and in line 11 strike out "in" and insert in lieu thereof "the".

Page 77, line 22, insert "(A)" before "Whenever".

Page 78, line 1, strike out "(A)" and insert in lieu thereof "(i)"; strike out "(B)" in line 5 and insert in lieu thereof "(ii)"; and strike out lines 13 and 14 and insert in lieu thereof the following:

time.

"(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall

Page 78, line 21, strike out "(A)" and insert in lieu thereof "(i)"; strike out line 23 and insert in lieu thereof "subparagraph (A), and"; and strike out "(B)(i)" in line 24 and insert in lieu thereof "(ii)(I)".

Page 79, line 1, strike out "(ii)" and insert in lieu thereof "(II)".

Page 84, line 1, strike out "resources" and insert in lieu thereof "sources"; and in line 15, strike out "rational" and insert in lieu thereof "national".

Page 86, line 21, insert a comma after "if".

Page 89, line 2, strike out "it" and insert in lieu thereof "the State".

Page 96, line 12, insert "of the Administrator under this section" after "Regulations".

Page 99, line 23, strike out "clause (i)" and insert in lieu thereof "its underground injection control program".

Page 100, insert after "(b)(2)" in line 24 a comma and the following: "if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A),"; and beginning in line 2 on page 101 strike out "such disapproval or expiration date" and insert in lieu thereof "the date of such disapproval, determination, or expiration".

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from West Virginia (Mr. Staggers).

The amendments were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Nichols, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill H.R. 13002 to amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes, pursuant to House Resolution 1423, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment. The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device; and there were—yeas 196, nays 84, answered "present" 1, not voting 53, as follows:

[Roll No. 631]

YEAS—296

Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Brademas
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Cleveland
Cohen
Collier
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Denholm
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Gonzalez
Gray
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Haley
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hunt
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kemp
Kluczynski
Koch
Kyros
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCloskey
McDade
McEwen
McFall
McKinney
Macdonald
Madden
Madigan
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Miller
Mills
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss

Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Powell, Ohio
Preyer
Price, Ill.
Quie
Railsback
Randall
Rees
Regula
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thone
Thornton
Tiernan
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waldie
Walsh
Wampler
Whalen
Whitehurst
Whitten
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ill.
Zablocki

NAYS—84

Abdnor
Archer
Arends
Armstrong
Bauman
Beard
Bray
Brown, Mich.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Casey, Tex.
Clawson, Del.
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
de la Garza
Dennis
Dorn
Fisher
Flynt
Fountain
Goldwater
Goodling
Gross
Hammerschmidt
Henderson
Holt
Hungate
Hutchinson
Ichord
Jones, Ala.
Jones, Okla.
Kazen
Ketchum
Lagomarsino
Landgrebe
Landrum
Latta
McCollister
McCormack
McKay
McSpadden
Mahon
Mallary
Mann
Martin, Nebr.
Milford
Montgomery
Moorhead, Calif.
Nichols
Parris
Poage
Price, Tex.
Pritchard
Quillen
Rarick
Roberts
Robinson, Va.
Rousselot
Runnels
Ruth
Satterfield
Scherle
Sebelius
Shuster
Sikes
Steiger, Ariz.
Symms
Treen
Veysey
White
Widnall
Wiggins
Wright
Young, Alaska
Young, S.C.
Young, Tex.
Zion

ANSWERED "PRESENT"—1

Ware

NOT VOTING—53

Alexander	Green, Oreg.	Reid
Anderson, Ill.	Guyer	Reuss
Ashbrook	Hanna	Riegle
Bafalis	Hawkins	Roe
Baker	Hébert	Rooney, N.Y.
Bowen	Holifield	Rose
Brasco	Jarman	Spence
Breaux	Jones, N.C.	Stubblefield
Broomfield	King	Stuckey
Brown, Ohio	Kuykendall	Teague
Broyhill, Va.	Maraziti	Thomson, Wis.
Carey, N.Y.	Martin, N.C.	Towell, Nev.
Clay	Mathis, Ga.	Waggonner
Davis, Ga.	Minshall, Ohio	Wilson, Bob
Eshleman	Murphy, N.Y.	Wyman
Ford	Murtha	Young, Ga.
Ginn	Podell	Zwach
Grasso	Rangel	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Alexander.
Mr. Waggonner with Mr. Davis of Georgia.
Mr. Carey of New York with Mrs. Grasso.
Mr. Teague with Mrs. Green of Oregon.
Mr. Murphy of New York with Mr. Hanna.
Mr. Rangel with Mr. Holifield.
Mr. Murtha with Mr. Baker.
Mr. Breaux with Mr. Broyhill of Virginia.
Mr. Clay with Mr. Maraziti.
Mr. Ford with Mr. Anderson of Illinois.
Mr. Ginn with Mr. Kuykendall.
Mr. Jarman with Mr. Brown of Ohio.
Mr. Jones of North Carolina with Mr. Stubblefield.
Mr. Riegle with Mr. Eshleman.
Mr. Reuss with Mr. Broomfield.
Mr. Rose with Mr. Ashbrook.
Mr. Rooney of New York with Mr. Guyer.
Mr. Stuckey with Mr. Bafalis.
Mr. Bowen with Mr. King.
Mr. Hawkins with Mr. Minshall of Ohio.
Mr. Mathis of Georgia with Mr. Martin of North Carolina.
Mr. Roe with Mr. Reid.
Mr. Spence with Mr. Wyman.
Mr. Bob Wilson with Mr. Thomson of Wisconsin.
Mr. Young of Georgia with Mr. Towell of Nevada.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1423, the Committee on Interstate and Foreign Commerce is discharged from the further consideration of the Senate bill (S. 433) to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Staggers moves to strike out all after the enacting clause of the bill S. 433 and insert in lieu thereof the provisions of the bill H.R. 13002, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after title XIII the following new title:

"TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

"PART A—DEFINITIONS

"DEFINITIONS

"SEC. 1401. For purposes of this title:

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

"(3) The term 'maximum contaminant level' means the maximum permissive level of a contaminant in water which is delivered to any user of a public water system.

"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribu-

tion facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"(5) The term 'supplier of water' means any person who owns or operates a public water system.

"(6) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(7) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(8) The term 'Agency' means the Environmental Protection Agency.

"(9) The term 'Council' means the National Drinking Water Advisory Council established under section 1446.

"(10) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

"(11) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, or municipality.

"PART B—PUBLIC WATER SYSTEMS

"COVERAGE

"SEC. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but it not owned or operated by, a public water system to which such regulations apply; and

"(3) which does not sell water to any person.

"NATIONAL DRINKING WATER REGULATIONS

"SEC. 1412. (a)(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

"(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than one year after the date of their promulgation.

"(b)(1)(A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

"(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

"(ii) list on the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of

which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change on such list.

"(2) On the date of the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

"(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1)(B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (1)(B) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (2) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term 'feasible' means feasible with the use of technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

"(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 5 years.

"(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect not later than 1 year after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

"(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

"(e)(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangement cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A),

(B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

"(3) In developing its proposals for recommendaed maximum contaminant levels under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

"(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

"(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

"(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

"(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

"(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and and mortality data and (B) monitored data on the qaulity of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

"(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

"(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (2) of this subsection.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (purusant to regulations prescribed under subsection (b)) that such State—

"(1) has adopted drinking water regulations which (A) in the case of the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) in the case of the period after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and

"(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416.

"(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall

require that before a determination of the Administrator that such requirements are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

"(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) determine that he is unable to make such determination and notify the applicant in writing of the reasons for his inability to make such determination.

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1414. (a)(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time.

"(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

"(i) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to subparagraph (A), and

"(ii)(I) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(II) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time the State abused its discretion in carrying out primary enforcement responsibility for public water systems,

the Administrator may commence a civil action under subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

"(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b).

"(b) The Administrator may bring a civil action in the appropriate United States district court, to require compliance with a national primary drinking water regulation or with any schedule, control measure, or other requirement

imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

"(1) authorized under paragraph (1) or (2) of subsection (a), or

"(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

"(c) Each owner or operator of a public water system shall be given notice to the persons served by it—

"(1) of any failure on the part of the public water system to—

"(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

"(B) perform monitoring required by section 1445(a), and

"(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(A) the existence of such variance or exemption, and

"(B) any failure to comply with the requirements of any schedule or control measure prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), and shall be furnished to the other communications media serving such area. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

"(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

"(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

"(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made to the public and communications media.

"VARIANCES

"SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

"(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance granted under this subparagraph shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.

"(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

"(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance.

"(D)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or monitoring or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—

"(I) identify each public water system with respect to which the finding was made,

"(II) specify the reasons for the finding, and

"(III) as appropriate, propose revocations of specific variances or propose revised control measures or monitoring or other requirements for specific public water systems granted variances, or both.

"(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropritae) such variance revocations and revised variance control measures or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a control measure or other requirement for a variance and if, before a revocation of such control measure or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or control measure or other requirement which the Administrator determines makes his finding inapplicable to such variance or control measure or other requirement, the Administrator shall rescind the application of his finding to that variance or control measure or other requirement. No variance revoca-

tion or revised control measure or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised control measure or other requirement was proposed.

"(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

"(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

"(b) Any control measure or other requirement on which a variance granted under this section is conditioned may be enforced under section 1414 as if such control measure was part of a national primary drinking water regulation.

"(c) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"EXEMPTIONS

"SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

"(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement, and

"(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement.

"(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

"(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

"(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

"(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, 1981; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

"(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant

to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

"(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

"(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption and document the need for the exemption.

"(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title.

"(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—

"(i) identify each exempt public water system with respect to which the finding was made,

"(ii) specify the reasons for the findings, and

"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

"(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subpargraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

"(e) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii) each

treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR THE STATE PROGRAMS

"SEC. 1421. (a)(1) The Administrator shall public proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

"(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (a)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

"(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

"(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers underground water sources;

"(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

"(D) shall apply (f) as prescribed by section 1447(b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

"(2) Regulations the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for the secondary or tertiary recovery of all or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

"(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

"(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

"(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(ii)), but after reasonable notice and public hearing, one or more temporary permits notice and public hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State has found, on the record of such hearing—

"(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse affect to the injection on the public health.

"(d) For purposes of this part:

"(1) The term 'underground injection' means the subsurface emplacement of fluids by well injection.

"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

"(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

"(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

"(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

"(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

"(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State

no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

"(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

"SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

"(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

"(b)(1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public

health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

"(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources, shall be subject to a civil penalty of not more than $5,000 per day. In addition, if such violation or failure to comply is willful, such person shall be punished by a fine of not more than $5,000 per day.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"INTERIM REGULATION OF UNDERGROUND INJECTIONS

"SEC. 1424. (a)(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

"(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

"(b)(1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

"(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

"(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

"(c) Any person who operates a new underground injection well in violation of subsection (b) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs. In addition, if such violation is willful, such person shall be punished by a fine of not more than $5,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States dis-

trict court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

"(d) For purposes of this section, the term 'new underground injection well' means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an acquifer which is the sole or principle drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such acquifer through a recharge zone.

"PART D—EMERGENCY POWERS

"EMERGENCY POWERS

"SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. Such action may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) shall be punished by a fine of not more than $5,000 per day of violation.

"PART E—GENERAL PROVISIONS

"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

"SEC. 1441. (a) If any person who uses chlorine, activated carbon, lime, ammonia, soda, ash, potassium permanganate, caustic soda, or other chemicals or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a 'certification of need') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

"(b)(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

"(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The re-

quirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reason therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

"(3) Within 30 days after—

"(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

"(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such applications,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

"(c)(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

"(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

"(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

"(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

"(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

"(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

"(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

"(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

"(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

"(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce the provision of such order.

"(f) No certification of need or order issued under this section may remain in effect—

"(1) for more than one year, or

"(2) after June 30, 1977.

whichever occurs first.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

"SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

"(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

"(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

"(4) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

"(B) means of control of such waste disposal. Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

"(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

"(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such

study, together with such recommendations for further review and corrective action as he deems appropriate.

"(b) In carrying out this title, the Administrator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contract with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d))).

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR STATE PROGRAMS

"SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

"(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed primary enforcement responsibility for public water systems within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. To the extent the applicable appropriation permits, the allotment of a State for any fiscal year shall not be less than $50,000.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

"(b)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may re-

quire. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within two years from the date of such grant an underground water source protection, and

"(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State. No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed primary enforcement responsibility for underground water sources within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

"(c) For purposes of this section:

"(1) The term 'public water system supervision program' means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making report required by section 1413(a)(3).

"(2) The term 'underground water source protection program' means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

"SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

"(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration (including construction) any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations:

"(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

"(2) Grants under this section shall be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

"(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

"RECORDS AND INSPECTIONS

"SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financal assistance under this title.

"(b)(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or a person in charge of any of the property of such supplier or other person), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

"(2) No entry may be made under the first sentence of paragraph (1) in any State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than $5,000.

"(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

"(2) Any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drinking water. For purposes of the subsection the term 'information required under this section' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term 'person' includes a Federal agency.

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1446. (a)(1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public, five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member apponted to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(C) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412.

"(b)(1) Each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(2) The Administrator shall waive compliance with paragraph (1) of this subsection upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record on the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interest of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

"GENERAL PROVISIONS

"SEC. 1448. (a)(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

"(d)(1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

"(h) Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to Congress its comments respecting any such report.

"(i)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because of the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this title or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

"(B) testified or is about to testify in any such proceeding, or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

"(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint.

90-224 O - 82 - 47

Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title.".

(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system.

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977.

BOTTLED DRINKING WATER

SEC. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read "an act to amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13002) was laid on the table.

EXCERPT FROM THE PRESIDENT'S SPECIAL MESSAGE TO THE CONGRESS ON NATIONAL LEGISLATIVE GOALS, SEPTEMBER 10, 1973

* * * * * * *

SAFE DRINKING WATER ACT

Finally, we must take new steps to protect the purity of our drinking water. The Federal Government's role in this process, however, should not be that of direct regulation but rather that of stimulating State and local authorities to ensure that national standards are met. I have asked that the primary monitoring and enforcement responsibilities for such standards be left with the States and localities.

This legislation has passed the Senate and awaits action in the House. While I urge prompt approval of this important new authority for the Environmental Protection Agency, I caution the Congress not to impinge on State and local powers and not to shift the responsibility for financing this program to the Federal Government and away from the users, where it belongs.

* * * * * * *

RICHARD M. NIXON.

ADMINISTRATION TESTIMONY AT HOUSE HEARING

SAFE DRINKING WATER ACT—1973

HEARINGS

BEFORE THE

SUBCOMMITTEE ON PUBLIC HEALTH AND ENVIRONMENT

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 5368, H.R. 1059, H.R. 5348, and H.R. 5995

BILLS TO AMEND THE PUBLIC HEALTH SERVICE ACT AND THE FEDERAL FOOD, DRUG, AND COSMETIC ACT TO ASSURE THAT THE PUBLIC IS PROVIDED WITH SAFE DRINKING WATER, AND FOR OTHER PURPOSES

MARCH 8 AND 9, 1973

Serial No. 93–11

Printed for the use of the
Committee on Interstate and Foreign Commerce

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973

SAFE DRINKING WATER ACT—1973

THURSDAY, MARCH 8, 1973

HOUSE OF REPRESENTATVES,
SUBCOMMITTEE ON PUBLIC HEALTH AND ENVIRONMENT,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Paul G. Rogers [chairman] presiding.

* * * * * * *

Our next witness will be Mr. Robert W. Fri, Deputy Administrator of the Environmental Protection Agency. He has with him Mr. James A. McDermott, Director of the Water Supply Division, and Mr. John Clark of the EPA Office of Legislation who is also here.

This committee relies on him a great deal in its dealings with the agency.

Note.—Additional material not directly related to legislative proposals was supplied by Administration witnesses to the Subcommittee. Some of that material has been omitted from this legislative history and may be found in the record of the hearing.

STATEMENT OF HON. ROBERT W. FRI, DEPUTY ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY; ACCOMPANIED BY JAMES A. McDERMOTT, DIRECTOR OF WATER SUPPLY DIVISION; AND JOHN CLARK, OFFICE OF LEGISLATION

Mr. FRI. Thank you. I am pleased to appear before this distinguished committee to testify in favor of the administration's Safe Drinking Water Act of 1973.

I was pleased to hear the testimony of Mr. Robison and my own Representative, Mr. Gude.

You will recall that we have appeared before this committee both in 1971 and 1972. In the first instance, we indicated that we had not then established a definitive position. Rather, we indicated that staff studies and investigations were still in process. In June 1972, after many of these studies were completed, we identified and supported several critical elements required in drinking water legislation, noting that the solution to identifying problems would not "in our opinion be effected by changing the roles of Federal or State governments—but by assuring the enforcement of national standards and by strengthening State and local programs."

Our studies and investigations have now advanced to the stage where the President has proposed to the Congress the "Safe Drinking Water Act of 1973," introduced yesterday, as H.R. 5368.

The comprehensive program specified in our proposal is based in large measure on an evaluation of our experience with the interstate carrier water supply program, which has been implemented over the last 60 years as a local, State, Federal partnership involving definitive responsibilities for all levels of government. Further, the proposed bill has drawn heavily from our experience as reported in our community water supply study of 1971, and a series of State program evaluations.

The Federal Government's program for protection of drinking water has traditionally been addressed to responsibility for preventing the spread of communicable diseases in interstate commerce, pursuant to the Public Health Service Act. Under this act, EPA promulgates and assists in the enforcement of regulations which preclude interstate carriers from utilizing water from sources which have not complied with certain required drinking water standards. This enforcement authority applies to about 650 out of an estimated 35,000 public water supply systems serving both large cities and small towns and applies only as such water is used by interstate carriers.

Under that authority drinking water standards have been established. These standards, last revised in 1962, contain limits concerning physical characteristics and chemical and biological constituents affecting the quality of the water. The standards establish limits on

levels of coliform bacteria, arsenic, barium, cadmium, chromium, cyanide, lead, fluoride, selenium, and silver intake which can clearly affect the health of the user. Interstate carriers do not use water drawn from systems which do not meet these requirements until the deficiency is corrected.

In addition to these requirements, the standards recommend limits on certain physical characteristics and chemical constituents of drinking water which are primarily of esthetic concern in that they impart undesirable taste and odors to the water, cause discoloration of plumbing fixtures, and the like.

Although the jurisdiction of our existing program is limited to those water supply systems serving interstate carriers, most large cities and the States use our standards as their basis for regulating the quality of their drinking water supplies.

Notwithstanding the wide acceptance of these standards, an extrapolation of the community water supply study, a field inspection and evaluation of 969 community water supply systems in 1970 conducted by our water supply division then in the Department of Health, Education, and Welfare, indicated that approximately 5.4 percent of the national population or 8 million people are served water that is potentially dangerous in that it fails to meet the existing standards set by the Federal Government.

These 8 million people receive unsafe water from an estimated 5,000 of the Nation's community water supply systems surveyed in the community water supply study. In the majority of cases these deficient systems are smaller systems serving smaller communities. In relation to this, national health figures indicated that during the 10-year period from 1961 to 1970, there were at least 128 known outbreaks of diseases or poisoning attributed to drinking water.

Deficiencies among the Nation's drinking water supply systems and surveillance programs have been well documented during your previous hearings, Mr. Chairman. Additional evidence, revealed since the June 1972 hearings, is contained in our evaluation of water supply systems and programs in three States. This evidence confirms our findings in other States, much of which has already been presented to this committee.,

These later evaluations indicate that in these three States where water supply systems were surveyed:

About 25 percent of the public water systems surveyed did not meet the bacteriological standards during one or more of the past 12 months;

About 50 percent of the systems did not meet bacteriological monitoring standards;

About 50 percent of the systems were judged to need additional treatment facilities; and

All these States were judged as needing to increase their water supply budget in order to provide an adequate program.

We currently have evaluations underway or in the planning stages for nine other States.

I would like to emphasize, Mr. Chairman, that the State program evaluations were initiated at the request of the States for technical assistance. In addition to the information of national significance which we have gathered we have sought to make recommendations

to solve immediate and potential local and State water supply problems.

I am happy to report the States have reacted quite favorably to this situation.

Mr. Chairman, given this body of experience, the administration has developed and has sent to the Congress a piece of legislation which we believe will provide an effective solution to the problem of providing safe drinking water for the public. The legislation is premised on what we believe to be an essential identification of Federal, State, and local responsibilities. The major responsibilities for carrying out the day-to-day work to assure safe drinking water is properly at the local level.

The bill is also premised on the conviction that the public has the right to know the quality of its drinking water and that an informed public is the best guardian of its own health and safety. The bill would capitalize on that conviction by assuring maximum public notification of standards violations.

Under the President's bill the EPA Administrator would establish national primary drinking water standards. These would be addressed to all health related limits for constituents of drinking water and would include requirements for monitoring and reporting of water quality.

We believe that the establishment of these primary standards should be a Federal responsibility. Standards for health protection do not vary with locality. It is the Federal Government which already has and can best bring together the most qualified pool of scientific and technical information concerning the complex health technical aspects involved. There is no point in obliging the States to duplicate this effort.

The EPA Administrator would also be authorized to issue recommended national secondary drinking water standards for adoption by State and local governments at their option. These recommended standards would apply to constituents of drinking water which may affect matters such as the taste, odor, or appearance of drinking water but is not a health hazard. I emphasize that these nonhealth related standards would not be mandatory but would be a matter of State or local preference.

I would also like to emphasize another provision of the standard setting authority. When the Administrator issues primary or recommended secondary standards, he is also required to publish, among other matters, information and data relating to the treatment, operation, maintenance, and construction of the water supply facilities. While treatment, operation, maintenance, and construction requirements are not made mandatory under the bill, information as to such must be published when standards are issued and would therefore be available for use by and guidance of suppliers of drinking water in their operations. That information could also be readily converted into regulations by State and local governments. This feature of the bill, while insuring that the health limits for constituents in drinking water are not exceeded, leave it up to the State and local agencies to determine how they will control the related matters of treatment, operation, maintenance, and construction to meet those standards.

We believe the enforcement provisions of the bill will be highly effective, almost self-executing and require little direct Federal involvement.

The bill provides that the States shall have primary enforcement authority with regard to the drinking water standards and that EPA will monitor activities of the States and public water supply systems only to the extent necessary to determine if there is an adequate program to enforce the primary standards. Whenever the water delivered by a water supply system is not in compliance with the primary drinking water standards, the supplier of the water must notify its users, appropriate State agencies, and EPA of the noncompliance and the possible health effects of such noncompliance.

This provision, coupled with a citizen suit provision will, we believe, make enforcement actions by regulatory agencies largely unnecessary. We believe that suppliers of drinking water, who in almost all cases charge for their product could not withstand the public pressure if their customers have notice that they are receiving water not in compliance with mandatory health standards. The possibility of a citizen suit provides an additional incentive to suppliers to maintain compliance with the standards.

As indicated earlier EPA's enforcement authority is concentrated on areas where a Federal role can be most effective. In the case of an imminent health hazard, EPA could bring an immediate enforcement action. That's clearly an area where direct and swift Federal action may be the best answer to the problem. Federal enforcement could also be invoked where the supplier of water does not comply with the notification requirements, the monitoring and reporting requirements, or where there is a refusal to permit entry and inspection of facilities.

Since the approach taken in this bill either stands or fails on an effective public notification system, we feel it necessary to emphasize the importance of monitoring, reporting, and notification requirements upon which a public notification system rests. We would make these requirements the subject of Federal enforcement.

The Federal enforcement authority includes both civil and criminal penalties and injunctive relief.

Perhaps of greater enforcement significance is the provision for citizen suits.

The President's bill has a broad authority for the conduct of research and for financial, technical and other assistance to be made available to appropriate agencies, institutions and individuals with regard to drinking water. We believe that this authority is necessary to continue to provide the best scientific base necessary for the establishment of standards and the provision of information and advice to States and localities.

Mr. Chairman, I turn now to H.R. 1059, safe drinking water legislation which has the same objective as the President's bill. We are, of course, in accord with the objective of H.R. 1059, and with many of its specific provisions. I will comment on two of its provisions with which we differ in the approach taken.

With regard to the scope of the mandatory primary drinking water standards for health, H.R. 1059 is considerably broader than the administration's bill. Standards under H.R. 1059 include, in addition

to limits on constituents of water, operation and maintenance requirements. The broad scope of the primary standards under H.R. 1059 coupled with the prospect of comprehensive Federal enforcement under the bill could displace State and local responsibility with a farflung and intensive Federal involvement. In our view, that is highly undesirable.

While operation and maintenance standards are useful to insure safe and adequate water supplies we believe that these standards can best be left to State and local determination.

Mr. ROGERS. You first said "useful," your written statement says "necessary."

Mr. FRI. I know that.

Mr. ROGERS. Is this an intentional change?

Mr. FRI. Yes, we can explain that change at this point or in questioning later.

Mr. ROGERS. It is a change? It was not marked out in the statement given to us.

Mr. FRI. I changed it this morning. I will go into that later.

Under the approach we outlined in our bill violation of water constituent health standards triggers the notification requirements as well as State and citizen enforcement. We believe such a system can work effectively and for that reason we see no reason to invoke Federal enforcement authority.

We recommend against enactment of the State program grant provisions of H.R. 1059. We believe that the safe drinking water program as contemplated by either of these bills will stimulate State and local interest and desire to improve State and local funding of such programs. The costs of treatment, testing, and monitoring can and should be derived from the users of the water supply. We believe that an adequate safe drinking water program can be funded from State and local sources.

Mr. Chairman, for the reasons I have outlined, we recommend enactment of the administration's Safe Drinking Water Act. We appreciate the interest and leadership you and the committee have shown to this legislation during the last Congress, and the early attention you are giving it in the 93d Congress. My staff and I will be pleased to work with your committee to perfect this important legislation.

I agree with your opening statement that while we have differences, I think they are not irreconcilable. I will be pleased to respond to any questions you have.

I might, having changed my statement somewhat, explain that briefly. On the question of operation and maintenance—I think that the statement was changed as I read it last night—really missed the point we ought to be making about the operation and maintenance requirements. Clearly guidelines for operation and maintenance are highly desirable and guidelines are certainly necessary.

I think, however, entering operation and maintenance standards into a Federal standard becomes complex beyond the benefit that is desired for two reasons. First of all, the character of treatment systems around the country ranging from the cold northern climates to the warm southern climates, and they can vary greatly. We have found

in the water pollution program it is far more effective to issue guidelines which the States can change into standards, if necessary, for their local conditions rather than to attempt to write a complex piece of work here at the Federal level. Also we have found that there typically is no reasonable relationship between how things get done in some of these programs and whether the result is accomplished.

Therefore, we would rather concentrate at the Federal level on the result. That is the really important thing; that is, whether there is a violation of the standards; whether the water itself is straight; whether the samples are being taken to determine whether there is a violation of the standards on a regular basis and whether there is right of entry to check up on the system to make sure the samples are taken correctly. We do not need to get involved in the operation and maintenance part of it.

That would suggest even a theoretically well-operated system may produce inadequate water and conversely. We would rather pay attention to the things we think will really count, issue guidelines for maintenance and operation, allow the States to modify those to local conditions, whether in the arid climate of the West or cold climates of the North, and proceed on that basis.

We think operations and maintenance requirements are unnecessary in Federal standards, the benefit is still there and it seems we are trying to tell this committee the reasons that are not, in my mind, relevant to making that point.

Thank you, Mr. Chairman.

Mr. ROGERS. Thank you, we appreciate your statement.

You indicate you have done a recent survey in three States?

Mr. FRI. Yes.

Mr. ROGERS. Which States?

Mr. FRI. Ohio, Kentucky, and Wyoming.

Mr. ROGERS. Ohio, Kentucky and Wyoming?

Mr. FRI. Yes, sir.

Mr. ROGERS. Is the present setup such that the States or localities do all of the enforcement?

Mr. FRI. In those States?

Mr. ROGERS. Yes.

Mr. FRI. Yes, I believe that is right. Isn't it, Jim?

Mr. ROGERS. There is no Federal enforcement?

Mr. FRI. Other than the interstate carrier program.

Mr. ROGERS. Which is minimal. So you are recommending that we leave basic control to the State and localities?

Mr. FRI. We agree with your statement. The fundamental enforcement authority should be at the State level.

Mr. ROGERS. You don't want Federal guidelines for maintenance and operation?

Mr. FRI. Yes, guidelines, for how that can be done, and we would like to see——

Mr. ROGERS. But, no requirement?

Mr. FRI. No requirement to write a Federal standard for operation and maintenance, but a Federal standard for the reasons I mentioned before.

Mr. ROGERS. Well, let's see, 50 percent of the systems needed additional treatment facilities, 50 percent didn't meet bacteriological monitors standards, 25 percent did not meet bacteriological standards

during one or more of the past 12 months. All of these States were judged as needing to increase their water supply budget in order to provide an adequate program.

I am glad you are going to survey nine more States. Have you identified these States?

Mr. FRI. Yes, they have. I cannot reel them off as quickly as Mr. McDermott.

Mr. MCDERMOTT. Would you like those names?

Mr. ROGERS. Yes. I think the committee would also be interested in knowing at what stage is your survey?

Mr. MCDERMOTT. The first State that we conducted an evaluation of was Tennessee and, of course, that report is included in the hearing records of last year. At the present time we are conducting studies at the request of the States of Connecticut, New Jersey, Maryland, Georgia. We are also planning to initiate a study upon the recent request of the State of Florida, made 2 months ago.

Further, we are involved with New Mexico, Kansas, Colorado and Idaho, in addition to the States Mr. Fri has mentioned earlier.

I might add, Mr. Chairman, that 2 years ago you and Mr. Symington asked the question, how many States have asked for help or assistance in response to the community water supply study? Perhaps they heard your question, but I think more properly they were inclined to request this assistance on their own in recognition of a potential problem they want to correct.

Mr. ROGERS. How many have asked for assistance?

Mr. MCDERMOTT. It would be a total of 14.

Mr. ROGERS. So we still have a number of requests to come out—maybe they will hear again and ask for more help.

As you say, I don't think we are too far apart on many of the provisions of the bill. I think we have to be realistic and I think the committee wants to be. If we are going to set standards, there ought to be a way to enforce those standards, and I am sure the subcommittee will consider your approach along with what the committee has considered in the past.

Mr. Nelsen?

Mr. NELSEN. I am wondering if you contact the State department of health for the States in which you find a problem?

Mr. FRI. Yes.

Mr. NELSEN. Have they responded when you do contact them?

Mr. FRI. First we undertake the study at the request of the State. That is typically the State department of health. We have completed the studies in Tennessee, Kentucky, Ohio, and Wyoming, although the last, the Wyoming study, was completed only a month ago.

So far our record has been really rather good in terms of State response to the studies. In Tennessee, for example, they have already doubled the size of their staff, doubled the budget, promised about a 20 or 30 percent increase within the next 5 years in staff, and to open new offices and the like. In less than a year Ohio raised its staff from 16 to 24 and by July of next year they will have 36 people in the field.

Kentucky had another study run because they were not too pleased with our initial study, but the second study done by the State university, I believe, corroborated our study.

Mr. NELSEN. I noticed the suggestion of citizens suits. Of course we have been a little skittish about that. There could be an avalanche of citizen suits in many, many bills if it once got started. I was hoping the State health departments would respond adequately once the findings have been made public or made available to them.

Mr. FRI. I think that is a very important point, Mr. Nelson, that the response both of the States to these kinds of studies as well as individual water supply systems when we rate them, when we downgrade their rating under the interstate carrier program has been exceedingly good. There has been little, if any, reluctance to correct these problems because of the obvious public health inference that is pointed out.

Mr. ROGERS. Mr. Preyer?

Mr. PREYER. Thank you, Mr. Chairman, and thank you, Mr. Fri, for an excellent statement.

You have said that these regulations are to be promulgated as soon as practicable. Congressman Robison suggested that that should be specified as 180 days or 90 days. Do you have any comment on that? Do you think his suggestion is feasible?

Mr. FRI. We have been working for some time to revise our standards and the present schedule under the Public Health Act would be to promulgate that standard in proposed form in the Federal Register in July or August of this year so our ability to promulgate a primary standard under any law that might pass the Congress would probably depend more on the administrative requirements for promulgation under the law than our ability to get ready.

I think as soon as practical, which is what we say in our bill, and 90 or 180 days is about the same. We would be ready to promulgate almost immediately.

Mr. PREYER. You anticipate you could meet his standard anyway, but you would like a little flexibility?

Mr. FRI. Any administrator given the option will write in "as soon as practical" instead of "180 days."

Mr. PREYER. You point out on page 4 the problems of unsafe water. You say that in the majority of cases these deficient systems are smaller systems serving smaller communities.

Then you say later on that you feel all of the costs of a program should be funded from State and local sources.

Being familiar with the smaller communities in my area, I can assure you that local funds are not a very realistic prospect for funding and I think it would have to come from the State level.

I wonder if you would have any sort of estimate, horseback or otherwise, as to what kind of cost we are talking about from smaller communities. You mentioned here 5,000 of the Nation's community water supply systems surveyed. If those are all small communities which can't undertake the burden of cost, are we loading down the States with prohibitive costs?

Mr. FRI. There is one estimate I read, it is not by us, it is by one of the professional associations, as I recall. It runs on the order of $300 to $500 million a year for the next several years for the country as a whole. I suppose we are talking then of $10 million—take an average State—I suppose you would be talking in the order of some $10 million a year. It would vary from State to State. I don't know

whether this has been broken down where we can determine the cost of the smaller systems, do you, Jim?

Mr. McDERMOTT. We have not conducted a comprehensive study of this. I would add this: There have been some studies that break down the cost of water per 40 gallons, several bathtubs full, and one estimate is that 40 gallons cost 1 cent in the bill that the consumer pays to the utility. Our point would be that if the price were doubled to 2 cents per 40 gallons, it would still be cheap by comparison with other basic utilities such as lights, heat, power, or the telephone.

Nationally—we realize that there are major differences between costs in small communities as opposed to large communities where there are economies of scale. On a national basis community water supply service costs about a third of such things as the local telephone bill. My telephone bill runs about $20 a month for the family and I don't even have teenagers yet. That will give you some estimate.

Mr. PREYER. You feel then by raising the cost of water that necessary improvements can be financed at the local level?

Mr. McDERMOTT. I was suggesting if it were necessary to raise the cost, in fact, double it, it would in our judgment be worth the price. In many instances it may not be necessary to raise the cost. We do know that in some instances, communities make a profit out of the water supply system. The receipts are used to defray the costs of operation and maintenance and the excess going into the general fund. I think if the town fathers realized the importance of the water supply and are given the opportunity or the realization they are going to have to make improvements for the benefit of the entire community, they will make sure that water system is properly taken care of.

Mr. PREYER. I am glad it is the mayors and city councils that are going to recommend doubling the cost of water and not us.

Thank you, gentlemen.

Mr. ROGERS. Mr. Heinz?

Mr. HEINZ. Thank you, Mr. Chairman.

Mr. Fri, I would like to commend you on an excellent statement. I would like to turn to page 5 of that statement for just a moment to pursue a few questions that Congressman Nelsen started with.

In the three States—Ohio, Kentucky, and Wyoming—that you monitored, did those States themselves have water quality standards, water safety standards?

Mr. FRI. Yes.

Mr. HEINZ. Were they in compliance with their own standards?

Mr. FRI. In each case their standard was either identical to or based with minor modification on the Federal standards so they are comparable standards in that sense.

Mr. HEINZ. Would this be true for all States?

Mr. FRI. Most States and most large cities use our standards as the basis for their own. There may be some exception among the States.

Mr. HEINZ. In spite of the fact they use more or less the same Federal standards you found some problems?

Mr. FRI. Yes.

Mr. HEINZ. Thank you, that was just for the record.

My main line of questioning that I would like to get into would be with respect to the State grant provisions that you took exception to in your statements. Of course, both the committee bill in section 1206 of H.R. 1059 and your own bill in section 7 authorize research into the problems of water, health, and safety. The major difference, of course, being that in section 1207 of the committee bill there is a provision for grants to the States to assist them in implementing such actions or facilities that may be required?

Mr. FRI. State program grants.

Mr. HEINZ. Correct.

Presumably the intent of both bills in having a research section is to create a body of expertise and information. Do you maintain that the dissemination of this information can be obtained without some specific mechanisms of the States that could be relied on to come to the Federal Government for technical assistance and information?

Mr. FRI. I think that the States are already spending some amount of money. All have programs of one sort or another in the public health department. The technology requirements are pretty well disseminated at this point. They are not obscure at all.

I think that through the State programs and through the very capable professional associations, both in the public health area and the operators of water treatment, both industrial and municipal, there are plenty of avenues to get results disseminated to the people who need them.

Mr. HEINZ. Does EPA now offer technical assistance programs to the State?

Mr. FRI. Yes.

Mr. HEINZ. What level of inquiry have you received?

Mr. FRI. I will ask Jim to answer that.

Mr. MCDERMOTT. Our regional offices regularly answer requests from the States as well as individual utilities. We further answer questions by way of our research laboratories and, of course, we receive many questions in Washington as well.

Mr. HEINZ. I suppose I am asking for information about requests for technical assistance to meet either State or Federal standards. Would it be possible, and with the permission of the chairman, to supply some information on the level of activity with respect to people at the State and local level coming to you?

Mr. MCDERMOTT. We will be happy to give you that.

Mr. ROGERS. Without objection.

* * * * * * *

Mr. ROY. What is the approximate amount of the public water supply today in the United States?

Mr. MCDERMOTT. There are approximately 170 million people who are served by community water supplies or piped conventional community water supply systems.

Mr. ROY. Is 17 billion gallons a day——

Mr. MCDERMOTT. That sounds like a reasonable number.

Mr. ROY [continuing]. An acceptable number? In what percentage does this public supply come from ground water sources?

Mr. MCDERMOTT. Approximately one-half.

Mr. ROY. I don't imagine you have available to you, as I have available to me, the percentage of public water supply that comes from underground supplies in given States?

Mr. MCDERMOTT. No.

Mr. ROY. I will read into the record, 86 percent of the public water supply in Florida, or 760 million gallons a day, comes from groundwater sources. In my State of Kansas 52 percent of the public water supply comes from underground sources.

In Minnesota; 57 percent. In North Carolina, 17 percent, and in Pennsylvania, 14 percent.

Now there is water, as you indicated by your answer to the first question, that is being used presently that does not come from public water supply. In other words, there is the so-called rural domestic use. About what percentage of the water used in this country is untreated, raw water as used in rural areas especially?

Mr. McDERMOTT. In many instances ground water can be used untreated if initial sampling or continuing samples show it is bacteriologically safe.

I would estimate something in the vicinity of 70 percent or more of ground water sources are probably not treated. That means they do not even receive chlorination.

Mr. ROY. The U.S. Geological Survey circular, I believe, No. 676, published in 1972, estimates there is 2.6 billion gallons per day of water used in rural domestic use. This makes up about one-tenth of the water being used in this country and they state about 96 percent of this is ground water.

Again the information I have is that in Florida 100 percent of the rural domestic use is from ground water and in Kansas 52 percent is from ground water, in Minnesota 100 percent of it is ground water. In Pennsylvania 100 percent is ground water and North Carolina only 99 percent is from ground water sources.

If this ground water indeed was not suitable for domestic use, or for one reason or another it became unsuitable, would it be extremely difficult to treat this in these isolated rural areas?

Mr. McDERMOTT. Yes, I think it would. You are presuming that an aquifer becomes polluted?

Mr. ROY. Yes.

Mr. McDERMOTT. The first question is how does the individual know whether the water is now polluted and presuming it is, how do you treat out the contaminant? Frankly, I think we all know there are different unit processes the individual homeowner could apply if he has the funds, and there is the continuing question whether he can operate and maintain that treating system in an adequate condition.

Mr. ROY. In rural areas any contamination of aquifers would be extremely serious?

Mr. McDERMOTT. Yes.

Mr. ROY. What are the sources of contamination as far as ground water is concerned?

Mr. McDERMOTT. They are as plentiful as leaves on a tree. The materials that are applied to the surface which can permeate to the ground water table, as well as waste that is disposed of in landfills and in some instances purposely injected into the ground.

Mr. ROY. I have a list I am sure touches the most important ones, the industrial injection wells are potential pollutants, dry holes, abandoned production wells, underground natural gas reservoirs, the landfills you mentioned, which we will see more of with the EPA and national efforts to do a better job of solid waste disposal, dumps, buried product pipelines, septic tanks and then heavily pumped coastal water wells which draw seawater inward by the removal of the oil.

What protection do we have for aquifers at the present time?

Mr. FRI. Substantially that protection, insofar as Federal programs are concerned, comes under the Federal Water Pollution Controls Act passed last year and the State programs which already exist, technically in some of the oil-producing States.

Mr. ROY. Could you tell me what protection is provided by this act?

Mr. FRI. In the Federal Water Pollution Control Act there are about nine sections which refer to ground water including the broad purpose of the act, there is authority to conduct research into ground water, there is a requirement that in order for the State to receive its pollution control program grant, its State agency grant, that it have monitoring of ground waters as part of its program, the section 208 area management program which is an areawide program.

Below the State level they must prepare a plan and a regulatory program that involves, among other things, the process to dispose of pollutants on land and in subsurface excavations in order to protect ground and surface waters. The basic continuing process includes ground waters.

We are required to publish information and guidelines and probably the most important is that in order for a State to acquire the delegation of the permit program, which is the fundamental informant tool under that act, it must have the authority and a program to issue permits which control the disposal of pollutants into wells.

So under the act there are substantial ground water protection standards in a substantial way.

We have found most States eager to acquire these standards and we want them th acquire them as quickly as possible. As far as it is built in there, it is a very meaningful authority.

Mr. ROY. There is no direct Federal control of contamination or pollution?

Mr. FRI. There is no direct Federal control, per se. Now in the Hazardous Waste Disposal bill that the administration will be introducing, there is a system for control of hazardous wastes, partly under direct Federal permitting authority for technically hazardous waste and under Federal supervision and guidelines for less hazardous and innocuous waste which would control under the provisions of that statute the disposal of toxic or potentially toxic or hazardous material, both on the surface, landfills and that kind of thing and into wells.

Mr. ROY. Is it true the pollution of an aquifer will remain in there for years?

Mr. FRI. Yes, it is difficult to clean up an aquifer. It takes time to purge an aquifer by natural processes.

Mr. ROY. I was given the figure 4.8 million people are served in Florida by ground water sources, 1,053,000 in Pennsylvania, 660,000 in North Carolina, 1.5 million in Minnesota. These people are extremely dependent on these aquifers either providing reasonably pure water or, if the water is contaminated, somebody paying the money necessary to remove the pollutants; is that correct?

Mr. FRI. Yes.

Mr. ROY. Mr. Heinz pointed out that you went into three States and found problems ranging in the area of 25 to 50 percent as far as tap water is concerned, the problems being that the standards were not met, the Federal and State standards were not met in about that percentage of your tests?

Mr. FRI. Yes.

Mr. ROY. These States, of course, have been depending upon State control for purity of drinking water for their taps, is that correct?

90-224 O - 82 - 48

Mr. FRI. Yes.

Mr. ROY. Isn't the control of—isn't the protection of aquifers more difficult perhaps than determining whether or not the water coming out ot the tap is of adequate standards?

Mr. FRI. Well, it would depend a lot on whether you have an aquifer that is not intruded upon by various injection wells, but presumably, if you have a complicated injection arrangement someplace, handling the aquifer might be more difficult than purifying the stuff coming out of the tap.

Mr. ROY. This is pretty much subject to whether an injection well, dry well, landfill or other things are polluting an aquifer. It can be done until somebody notices the pollution?

Mr. FRI. It is not subtle, but it is difficult to find. You have to drill a hole, do a dye test or do something. It is a little more complicated.

Mr. ROY. I don't know where this is from, the term "pollutant" is defined as not to mean water, gas or other material which is injected into a well to facilitate the production of oil or gas or water derivative in association with oil or gas production and disposed of in a well, if the well is used either to facilitate the production or for disposal purposes and is approved by the authority of the State in which the well is located and this State determines such injection or disposal will not result in the degredation of water sources.

I understand the importance of that final phrase. Is there really any rhyme or reason to narrow the definition of pollution in this sense?

Mr. FRI. As I understand it, it would be presumptive of me to comment on the deliberations of the Congress, I don't know exactly how this was put in, but as I understand the purpose of this, as a matter of good practice reinjection of brine back into the ground from where it began is entirely acceptable. You get it up when you drill the well, you have to put it back, you put it back in a gas aquifer, not a water aquifer, from whence it came.

That is not a bad place to put it. It maintains the pressure and won't do any more harm than before. It maintains the pressure on the oilfield.

Purely as a matter of speculation, I emphasize that. I say the intent here is to recognize the fact of the reintroduction of that brine back into the original aquifer is a matter of good practice and as long as the State was able to determine that was being done in a proper way, indications were sound and it was, in fact, being reinjected into the original aquifer, that is good practice.

Whereas the injection of industrial waste into a deep well is presumptively a bad thing and, therefore, is directly controlled under the permit program. The reinjection of brine is not necessarily bad and is probably good if done right. I would assume that is why that definition is in the law.

Mr. ROY. If, indeed, the materials which came from the Earth and were returned to the Earth do pollute an aquifer, the pollution is just as serious as if the materials were found on the surface of the Earth?

Mr. FRI. Yes, but you have to put them someplace and presumptively the most likely place to put them is back where they came from. You can't make the situation any worse.

Mr. ROY. Isn't it true they are oftentimes reinjected at a level different from whence they came?

Mr. FRI. That I really don't know. As I understand it, the general practice is to attempt to reinject it back down the casing and put it back where it came from. I think that is the purpose of that final, and as you point out, important point in the definition, if the State determines it won't result in degradation of ground water resources.

Mr. ROY. Is it true ground water is one of our great national and natural water resources at this time?

Mr. FRI. Yes.

Mr. ROY. And the protection of that ground water is of extreme importance to people of this Nation?

Mr. FRI. It would be of extreme importance to 52 percent of Kansas, Florida, and Minnesota, the States you read.

Mr. ROY. In view of the simple matter of determining purity of drinking water and the record of failure you read to us from your investigations in three States, isn't it really presenting a hazard to the American people to rely upon State permits to protect ground water when, indeed, this has not been the practice of the States in years past and we agree that it is a difficult thing to protect our aquifers?

Mr. FRI. Well, I think that those statistics, of course, deal with the ability of a system to purify the stuff when it comes out of whatever it comes out of, whether surface or ground water, I don't know what percentage of ground water supplies were looked at. But in assuming that there was some problem in purifying the ground water, it seems to me that the new Federal Water Pollution Control Act passed by the Congress together with special attention for the disposal of toxic wastes, as we will be proposing, and particularly in the Water Act itself the attachment of money in the permit program to permit control of ground water supplies and deep well in particular provides a greater impetus than we have had in the past for the control and preservation of ground water.

Mr. ROY. I agree it gives substantially greater impetus than in the past. I think my question indicates I feel we are proposing at least, and have laws presently at least, which are inadequate to protect our aquifers and this alarms me greatly. This was the reason for my line of questioning.

I think it is appropriate that we talk of purifying water in view of the epidemic which occurred in Homestead, Fla. recently among migrant workers. I understand there are some 120 cases of confirmed typhoid fever.

Do you know the source of water supply for the migrant workers?

Mr. FRI. Yes, they have two wells. It is a camp, originally constructed in the 1950's, rebuilt in the 1960's. They have about 2,000 people. They have two wells with a chlorinator and a distribution system.

Mr. ROY. Who was responsible for the purity of the water in these camps?

Mr. FRI. The operator had the responsibility for operating the system and the surveillance was by the Dade County Health Department Sanitation Division.

Mr. ROY. I don't think I will pursue this any further. I know there is at least one person on this committee that has a great deal more interest in Florida than I, but we have an equal interest as far as purifying water is concerned.

A couple of other quick questions. Are there dangers to ground water from pharmaceuticals?

Mr. FRI. I am not sure I understand. If the pharmaceutical is allowed to get into the ground water, I would assume that there could conceivably be, yes. There are certainly surface water pollution problems from pharmaceutical manufacturing firms.

Mr. ROY. One last question. You may want to present this for the record. Could you provide for us any known incidents of ground water pollution by deep well injection?

Mr. FRI. Yes. I will supply that for the record.

[The following information was received for the record:]

KNOWN INCIDENTS OF GROUND WATER POLLUTION FROM SUBSURFACE INJECTION

The following is supplied for the hearing record from information readily available within the short time frame requested.

California

Tuolumne River polluted by brine originating from abandoned gas wells.
Santa Barbara—high boron brine from water flood polluted groundwater through abandoned oil wells.
Baldwin Hills reservoir failure reported to have been precipitated by earth movement caused by water flood injection for secondary recovery of oil at 1200 foot depth.

Colorado

Adams County and Weld County water wells polluted by salt water disposal wells.

Florida

Dade County—3500 permitted shallow drainage wells injecting cooling water return, swimming pool effluent, slaughter house waste, battery acid waste, metal plating waste, laundromat wastes and similar matter into the fresh water Biscayne aquifer.
Broward County—Municipal waste effluent disposal contaminated fresh water aquifer.
Palm Beach County—Organic waste from injection well broke out into shallow aquifer above.
Live Oak and Gainsville—disposal of municipal wastes into sink holes connected with aquifer used for water supply.
Fort Myers—Phenolic wastes injected into well contaminated fresh water aquifer.

Georgia

Camilla—Creosote disposal well contaminated fresh water aquifer.
Free flowing oil test wells contaminating streams and aquifers.
Drainage wells installed to drain ponds for peat moss production go into fresh water aquifers with resultant deterioration of quality.

Illinois

Injection well for gas storage contaminated shallow aquifer with gas.

Kansas

Salina County—salt water disposal well polluted fresh water aquifer.
Cowley County—water flood brine injection well tubing failure polluted fresh-water aquifer.

Louisiana

Casing failure in chemical waste injection well.

Michigan

Newaygo County—LPG injection into subsurface storage reservoir polluted fresh water aquifer with gas.

Mississippi

Oil well brine injected below 1500 feet in south east part of state is killing off vegetation and polluting streams and shallow aquifers.

Nebraska

Adams County—phenolic waste from disposal well polluted shallow aquifer.

Nevada

Copper mine injecting acid into ore deposit in solution mining operation contaminated shallow aquifer.

New York

Buffalo—Disposal well blow out introduced cyanide into water supply.
Aurora—liquid waste from cheese plant pumped underground reappeared at surface a mile away.

North Carolina

Injection well casing failure detected before fresh water aquifers were polluted with chemical waste.

Ohio

Medina County—high pressure injection for shallow (400 ft) water flood operation contaminated fresh water aquifer by leakage through abandoned and unplugged wells.

Oklahoma

Okmulgee, Tulsa, Muskogee, Nowata and Rogers Counties—pollution of shallow aquifers from bine injection water flood operations.

Pennsylvania

McKean County—pollution of fresh water aquifer by return of crude oil and brine through old abandoned wells in water flood operation.

South Dakota

Lawerence County—disposal of mining waste by injection wells pollute fresh water aquifers.

Tennessee

Injecting chemical waste into fresh water carbonate aquifer.

Texas

Wilbarger, Hutchinson and Hockley Counties leaky salt water disposal wells in water flood operations pollute fresh water aquifers with brine and gas.

Utah

Solution mining of potash caused flow from old test well polluting streams and possibly groundwater.

West Virginia

Kanawa and Roane Counties—brine injection wells for water flood operations pollute fresh water aquifers through old abandoned and unplugged oil wells.

Wyoming

Acid solution mining operation by injection into ore body pollutes fresh water aquifers.

Mr. ROY. All right.

Thank you, Mr. Fri.

Thank you, Mr. Chairman.

Mr. ROGERS. There hasn't been any decline in the average number outbreaks since the early 1950's, has there?

Mr. FRI. It seems to have been relatively stable. There has been a substantial reduction in 1940's, and, as I recall the graph, it has crept back upwards slightly.

Mr. ROGERS. What is a State's obligation if an outbreak occurs? Does the State report to the National Center for Disease Control?

Mr. FRI. As I understand it, when outbreaks of certain types of reportable diseases occur, the States are required, to report to the Communicable Diseases Center. I understand the CDC typically has one of their own men attached to the State Health Department, but,

yes, the report is to the CDC. It is a State or local responsibility to deal with an epidemic if there is one.

Mr. ROGERS. Presently the city of Homestead, Fla. is in the midst of the longest typhoid epidemic in 80 years.

Mr. FRI. It is a substantial outbreak. There are some cases every year.

Mr. ROGERS. How would this be handled under your proposal?

Mr. FRI. Suppose I go briefly over what happened, at least as we understand it in Homestead as a basis for that.

The record of bacteriological contamination of these two wells led the county health department to collect some samples on the 29th of December and they were substantially——

Mr. ROGERS. What triggered that action by the county health department?

Mr. FRI. A spotty record of bacteriological samples and several cases of gastroenteritis led the State to collect four samples on December 29: One in the raw well water, one in the chlorinated water and two in each of the distribution systems demonstrated bacteriological counts substantially in excess of the standards. The sanitary engineering division of the county inspected the system on January 3, 1973, and found the chlorine cylinder empty. There was a chlorinator on these two wells.

A new cylinder was attached and by early January, once the cylinder was attached and running again, the bacteriological samples were satisfactory.

Apparently what happended is that the cylinder ran dry a second time and was not replaced. It was during the first 3 weeks in February. Although I am not sure this has been fully confirmd, the wells appear to be the source of the typhoid problem.

Mr. ROGERS. How did it get into the well system?

Mr. FRI. That is somewhat speculative. There were two sources looked at. One was when they built this well and built this camp, there were old sewer pipes that were closed off. A dye test was run on those pipes and there was no positive case that there was any seepage into the well. There is a package sewage treatment plant, sanitation facility in the camp. That was dye tested and there was no positive indications.

However, a soluble dye test on the ground immediately surrounding the well produced an immediate and positive indication.

Defecation or urination on the ground is believed to be the problem not the sanitation facility they have, that may have been the source of contamination. But the pollution control facilities at least at the time the dye test was taken seem to have been working properly.

The speculation is something happened in the immediate vicinity of the well or one of the wells that created the problem.

Under the administration bill, one has to assume perfect information, in a sense, to stop every possible outbreak of this type. Under the administration bill, I would see something like this happening: The samples, a certain frequency of sampling would be required on the order of a minimum of two a month. This chlorinator was programed to operate 6 weeks at a crack.

Once a month is within the operating time of the chlorinator. If it had been collected by the county, the operator then would have proceeded to fix the chlorinator. Then he would have been required to continue to take samples.

Had he failed to take samples, which may have been what happened, within the allotted time period, the Federal Government directly could have stepped in and insisted that a sample be taken and if that sample proved negative or the bacteriological count was spotty as it had been before, presumably the same scenario would have been repeated, the operator would have filled the chlorinator again.

Under the administration's bill, if we had been concentrating at the Federal level on this particular camp, you have to make the assumption if whatever agency involved was looking at the camp at the right time, we would have been able to insure through direct Federal enforcement action that the samples were being taken and that when a violation began to occur, as it had been determined by the Dade County officials, corrective action was taken fairly straightforwardly.

Mr. ROGERS. What would you think is the difference in the authority you would have under your proposal and what the Public Health Service currently has to take action? Would one be stronger than the other?

Mr. FRI. The current Public Health Service Act, you may correct me on this, Jim, but I understand the current Public Health Service Act does not permit direct Federal enforcement either on the notification of the results of samples, direct Federal enforcement over the taking of the sample to see it is done on regular intervals or to enforce right of entry so either Federal or State officials can go in and see that the samples are being taken adequately.

Mr. MCDERMOTT. Further, there is the factor here that when we find a major deficiency and prohibit the use of the system, the use of the system is prohibited insofar as the carrier is concerned rather than the resident population. It becomes the judgment of State and local officials as to what they will do in the best interest of that population.

Mr. ROGERS. You are proposing to require sampling?

Mr. FRI. Oh, yes.

Mr. MCDERMOTT. The emphasis has to be on prevention rather than cure.

Mr. ROGERS. You want to require proper maintenance?

Mr. FRI. I think there should be proper maintenance.

Mr. ROGERS. But you don't require it in your proposed regulation?

Mr. FRI. We don't require it in a Federal standard.

Mr. ROGERS. Why not?

Mr. FRI. It seems to us it is better left to local and State authorities.

Mr. ROGERS. The States are not doing it; the State did not maintain the chlorinator in Homestead?

Mr. FRI. The operator was supposed to do that.

Mr. ROGERS. The State didn't require him to maintain it.

Mr. FRI. The State took the sample and as soon as the sample indicated positive on December 29, they sent a man around and discovered the cylinder was empty and the operator fixed it thereupon.

Mr. ROGERS. But if there had been a requirement the epidemic might not have occurred; it could have been prevented.

Mr. FRI. If there had been a requirement to continue monitoring——

Mr. ROGERS. No, if he had been required to maintain it, he would have given more attention to it. The point I am making is that I don't see the point of your saying that the Federal Government should not require maintenance, but should require sampling.

It will require just as much enforcement and effort by the Federal Government to monitor sampling as it will monitor maintenance.

If you are going to monitor and check on samples of every water system in the country, isn't that a pretty strong Federal involvement?

Mr. FRI. Where it counts. As we see this problem, it is a question of making sure you know what is in the water.

Mr. ROGERS. If you are going to do that, why don't you put it in a standard?

Mr. FRI. We won't go out and monitor every water system in the country.

Mr. ROGERS. If you put it in the standard you have the right to monitor every system. What good is it for us to give you the authority if you are not going to use it. Are you saying you won't use it?

Mr. FRI. I am saying we won't physically monitor every water supply.

Mr. ROGERS. But you can require sampling and maintenance and can do something about it, if it isn't done, by imposing criminal penalties.

Mr. FRI. If it is a willful violation.

Mr. ROGERS. Criminal penalties imply pretty strict enforcement, I would say.

Mr. FRI. That is right.

Mr. ROGERS. But you don't want to ascertain that everything is maintained. You just want a guideline. A standard doesn't mean you must physically check every system, but if the State or locality isn't doing it properly, you can enforce the standard. You don't think you should have backup authority to make sure these things are done?

Mr. FRI. What we feel is the backup authority should be directed toward the end result and that is the quality of the water, not against the minor variations in how——

Mr. ROGERS. Have you looked at the Clean Air Act?

Mr. FRI. At some length.

Mr. ROGERS. Don't you think you should have that same authority here?

Mr. FRI. It seems to me backup authority in the Clean Air Act is when the standards begin to be violated.

Mr. ROGERS. If you recall, you are authorized to write a plan for them if they don't. We can set the enforcement, we can enforce it.

Mr. FRI. I recall that but the Clean Air Act does not get into the question of equipment specifications. It talks entirely about performance standards, end results.

Mr. ROGERS. It allows EPA to do everything a State can do.

Mr. FRI. That is taking over the whole State program.

Mr. ROGERS. EPA can take over the whole State program in the Clean Air Act, that is the backup authority there. Now you say you don't want that authority for water but clean water and air are both essential for human beings. Didn't you say that?

Mr. FRI. Somebody said that.

Mr. ROGERS. Would you agree?

Mr. FRI. I could not disagree.

Mr. ROGERS. That is enough for this committee.

There is no point in pursuing it but I think you are drawing a rather fine line. I am not so sure that your bill is quite the involvement of the Federal Government that would make some States shudder.

Maybe we can protect this new Federal/State relationship in this committee and write legislation which will try to get the States to do what they ought to without scaring them to death.

Let me ask this on another line, to what agents in the water are most outbreaks attributed, are many attributed to viruses?

Mr. FRI. A number of bacteriological infections, some disease outbreaks appear to be caused by viruses.

Mr. ROGERS. If you could give us something in the record we would appreciate it.

Mr. FRI. All right.

Mr. ROGERS. What are the major causes of these outbreaks? Is it contamination of source water, or contamination during distribution? You can put this in the record.

Mr. FRI. We will submit that.

* * * * * * *

Mr. ROGERS. Could you give us a few specific examples of recent outbreaks. I would like to know the circumstances surrounding the Riverside, Calif., outbreak; are you familiar with them?

Mr. MCDERMOTT. This information is available. A recent issue of the Water Works Association Journal includes some of our scientists' findings over the past 10 years. Perhaps that would suffice for the record.

Mr. ROGERS. Gainesville, Fla.; Madeira, Calif.; Vooreshville, N.Y.——

Mr. MCDERMOTT. That [Vooreshville, N.Y.] is a contested situation but we can supply some information. [See p. 220.]

Mr. ROGERS. Were there striking similarities in those cases I mentioned and what were the causes?

Mr. MCDERMOTT. The examples you mention are well chosen in that they show a variety of circumstances, where contamination occurs and how it occurs.

On points you made earlier, the question is whether all outbreaks are reported, and if not, why not. One example would be your reference to virus. Classically the epidemiologists would like to have had it shown that a particular virus can be identified in the laboratory, fed to human volunteers with symptoms developing in the volunteers and a whole series of other things.

Frequently, as you know, we don't have the capability to identify and grow the virus in the laboratory, let alone routinely identify them in a distribution system. Frequently lacking definitive evidence, the epidemiologist may assume it was some other source within the community, perhaps milk or food. That leaves a lingering doubt, so we are involved in judgment factors. I think we can contribute that information for the record.

Mr. ROGERS. That would be helpful.

* * * * * * *

Mr. ROGERS. As I understand, you recently updated the status of interstate carrier water supply systems?

Mr. FRI. Yes.

Mr. ROGERS. What percentage were approved or failed and what is the change since the last survey, for the better or worse?

Mr. MCDERMOTT. At the present time, approximately 75 to 80 percent of the interstate carrier systems are fully approved, the remainder being carried on the provisionally approved list.

As for changes, during the last 2 years something like 60 percent of the systems were consistently good; that is, they remained excellent, fully approved. And an additional 15 percent that had been provisionally approved rose to fully approved. Then for one deficiency or another, not deficiencies relating to imminent hazard, but where we identified improvements that should be made over a period of time, some 15 percent fell from fully approved to provisionally approved.

On the question of prohibited systems, during the same period of time, we have found it necessary to prohibit the use of some 38 systems for one period of time or another. This included 10 systems that were put on the prohibited list temporarily because of the impact of floods, hurricanes, and tornadoes.

Generally speaking those systems were immediately restored to fully approved status as soon as the cleanup had been accomplished.

Mr. ROGERS. I have a number of questions I would like to submit for your reply to the record.

Mr. FRI. Yes, sir, we will be happy to respond.

[The following questions by Chairman Rogers and EPA's answers were received for the record:]

QUESTIONS SUBMITTED BY CHAIRMAN PAUL G. ROGERS AND EPA'S ANSWERS

Question 1: The Administration Bill does not mandate promulgation of secondary Standards, only that EPA may do so. Why?

Answer: During the course of hearings, discussions, and special studies, between 1971 and 1973, it has become increasingly apparent what the prime thrust of a Federal program should be the uniform application of health related standards. Secondary standards are related to aesthetics.

As a central authority with the technical capability for making determinations as to the desirability of certain dimensions of aesthetic standards, EPA is in a position of preparing a set of recommended esthetic standards. This is a logical continuation of the traditional Federal posture with regard to such standards that now exists within the Interstate Carrier Certification Program. We, therefore, are prepared to make available a set of recommended secondary or aesthetic standards, as a form of technical assistance.

We recognize, however, that there is substantial variation from region to region regarding the desirability of certain aesthetic drinking water characteristics. Thus what may be entirely palatable and in fact desirable to one consumer may be objectionable to another consumer in a different geographic area. We therefore believe these consumers should have the option of making their own determinations regarding certain limitation to constituent levels as these relate to aesthetic values.

Question 2: In the Subcommittee Bill, primary drinking water standards include requirements for criteria for the minimum quality of water taken into the system. In other words, the quality of the source water must be considered. Is this not desirable?

Answer: From the standpoint of public health, primary concern is for the quality of water available to the public through a water supply system. This "finished" water quality is affected by the quality of the source water only as it relates to the adequacy and availability of suitable treatment processes. The EPA bill would provide for the publication of information on water treatment methods and technology for the control of contaminants including situations where existing technology is not adequate to permit the use of certain classes of source water.

Thus the establishment of finished water quality standards with the information on water treatment precludes the need for source water quality standards.

Question 3: Except for the Subcommittee's inclusion of criteria for minimum quality of source waters, do you see any real distinction between the criteria involved in primary and secondary standards in the EPA bill and in the Subcommittee bill?

Answer: The principal difference between the criteria involved in H.R. 1059 and the EPA bill is the requirement for system operation and maintenance in H.R. 1059. The EPA bill does not require that Federal standards for operation and maintenance be established. In our view the establishment of standards for operation and maintenance should be a State function and that EPA should only develop recommendations and guidelines. H.R. 1059 would initially authorize EPA to establish operation and maintenance standards. The EPA bill provides a description of secondary standards (aesthetic). H.R. 1059 only indicates that secondary standards are to be established.

Question 4: You also require notification to users of a water system not in compliance with primary standards. Do any States have procedures to that effect? My reason in asking is that I wonder if such notification might cause undue panic.

Answer: No States have public notification. The State of Washington currently has a bill before its legislature which will require public notification.

We do not believe that notification will cause panic if the primary standards are adopted as they are currently being considered for the following reasons:

Public notification would be required *only* after a series of events have taken place:

(1) *Bacteriological.*—When one sample exceeds the bacteriological limit a "check" sample is immediately taken and investigation occurs in the immediately affected area if successive samples are not satisfactory and treatment and/or investigation has not cleared up the problem. Public notification is also required when the bacterial quality standard is not met any two (2) months out of the past 12 months. Such notification is then based on a history of quality violations and is the direct result of inactivity on the part of the utility concerned.

(2) *Chemical.*—In order for public notification to take place when a primary chemical standard is violated it is necessary to exceed an "average concentration." The average is based on three months of sampling at a frequency satisfactory to both the State and EPA. Such a schedule allows poth the utility and the State to investigate the cause of failure to meet the standard and to understand the problem so they can develop an advisory notification that will inform rather than frighten the consumers.

Question 5: Do you see any real difference between your "imminent hazards" section (Sec. 6) and our "Emergency Powers" section (Sec. 1205)?

Answer: No. There are no major differences. The Administration bill dictates action if there is serious risk to public health which does exist or will exist prior to the normal sequence of enforcement activity. The Administrator may request the Attorney General to petition a *district court* for necessary action to eliminate the hazard. He can also establish a standard to eliminate the hazard under section 4 of the Act. He may also bring a civil or criminal penalty action if the notification, monitoring and reporting, and inspection requirements are violated. Under H.R. 1059 the Administrator can proceed directly to issue orders upon evidence of the presence of a hazard and failure by the State or local authorities to act. Failure to comply with these orders can lead to a fine up to $5,000 per day of violation. A civil action for appropriate relief may also be commenced.

Question 6: Also, the Subcommittee Bill contains a small amount of money for the States in order to initiate and implement primary standards. Your bill does not. What would it cost, per state to carry out the bill? By costs, I mean expenses over and above what states are now spending. Can states pick up the additional amount?

Answer: In 1971 we made a survey of State expenditures for water supply program activities. Based upon information provided by the States, total expenditures were slightly in excess of $10 million for 1970.

More recently we estimated the costs of adequate state programs including surveillance, i.e., sanitary surveys, chemical and bacteriological analyses; plan reviews; and technical assistance and training. The annual cost is now estimated at approximately $50 million.

We are in the process of making detailed evaluations of nine state water supply programs, where requested by the States. In addition, the Conference of State Sanitary Engineers is compiling program cost data through a questionaire distributed to all States.

We believe Federal grant funds to supplement State programs will not be necessary. In States where we have completed our detailed evaluations, we note that our reports are being used by the States to justify more adequate water supply program budgets through the State budgeting procedure. We also believe that a portion of the water supply program costs should be borne by the utilities themselves. Some states presently charge the utilities for bacteriological and chemical analyses. This practice could be expanded to offset increased State program costs.

Question 7: Subcommittee bill mandates an Advisory Council to assist the Administrator in promulgating standards. EPA's bill does not. Isn't it wise to get expert input from the private sector?

Answer: The Administration's bill provides that establishing or revising standards or publishing recommended standards under this section, the Administrator shall take into consideration the views and recommendations of recognized experts in the field of water supply engineering and public health.

We are already making use of an expert advisory committee with regard to revising the drinking water standards and would continue to seek advice from advisory committees when needed. We see no need to require a statutory advisory committee.

Mr. ROGERS. Let me ask, you are asking for open ended funding. What do you anticipate the funding would be for this bill over a 3-year period?

Mr. FRI. We are preparing those and will submit them for the record.

[The following information was received for the record:]

5-YEAR PROJECTIONS OF EPA COSTS[1] FOR IMPLEMENTING ADMINISTRATION BILL—THE SAFE DRINKING WATER ACT OF 1973

[In thousands of dollars]

	1974	1975	1976	1977	1978
Estimated costs	9,000	15,000	20,000	20,000	20,000

[1] Estimates include current funding levels of approximately $4.3 million annually.

Mr. ROGERS. Do you have an idea?

Mr. FRI. Frankly, no, I have not looked at the estimate.

Mr. ROGERS. Do you know, Mr. McDermott?

Mr. MCDERMOTT. Not just yet.

Mr. ROGERS. You have no framework at all. Are you suggesting that OMB let you come up here without ascertaining the costs?

Mr. FRI. OMB lets us come all the time.

Mr. ROGERS. For what purpose?

Mr. FRI. We have about a $4 million program, we think it would be roughly the same magnitude.

Mr. ROGERS. $4 million. Do you provide for or even encourage training in your bill?

Mr. FRI. We don't provide training money.

Mr. ROGERS. Or any incentive for training?

Mr. FRI. Technical assistance for States to establish training programs.

Mr. ROGERS. Isn't training a necessary ingredient in improving the water supply in the Nation?

Mr. FRI. It is important that operators be trained, yes.

Mr. ROGERS. I think we will put a date on when the standards should be issued. Do you have any disagreement with that?

Mr. FRI. No.

Mr. ROGERS. Hasn't FDA proposed standards for bottled water?

Mr. FRI. That is right. The FDA proposed standards in January.

Mr. ROGERS. Are they final?

Mr. FRI. I believe not. We have made minor comments to the FDA.

Mr. ROGERS. Were you consulted?

Mr. FRI. Yes, we furnished them our report and analysis on the subject. As I recall, the Federal Register even gives us a credit line for having given them some help.

Mr. ROGERS. Who should enforce the bottled drinking water standards?

Mr. FRI. I think FDA, it is a portion of the manufacturing situation.

Mr. ROGERS. You don't feel you should be involved with bottled drinking water?

Mr. FRI. Not in a direct enforcement sense, I think not.

Mr. ROGERS. Should you register preparers of bottled drinking water?

Mr. FRI. No, FDA has set up for that.

Mr. ROGERS. You would recommend they continue?

Mr. FRI. Yes.

Mr. ROGERS. I am concerned about this because I recall a New York Times story earlier this month, that stated bacteriological surveillance was judged inadequate in more than half of the firms inspected. One-half of the firms failed to comply with five or more of the eight criteria FDA has tried to establish.

Mr. FRI. Yes.

Mr. ROGERS. Now, the subcommittee bill contains a section authorizing appropriations for demonstration projects.

Mr. FRI. Yes.

Mr. ROGERS. Don't you think we ought to have a program for demonstration work in this area?

Mr. FRI. First, I think the fairly broad language in the Administration bill would permit some of that. I think more important what we conceive to be the status of things right now; it seems to us the water treatment technology is basically sound at the present time for treating the kind of raw water we are using. The next real new demonstration in treatment technology is likely to come when we begin to do closer to 100-percent recycling.

As someone pointed out today, I think it is as high as 18 percent with an average of 3 percent. The program is aimed largely at the identification and characterization of pollutants in potential raw water supplies and in methods of quickly detecting them, particularly in the virus situation.

After we have done that pollution characterization and implementation work and we see more recycling come about as more treatment plants are built, all of which will not happen in 5 years or so, it may be necessary to upgrade treatment technology. That is a problem down the road and we have not emphasized demonstration projects.

Mr. ROGERS. You better be looking down that road. We ought to look ahead before the problem is on us. I think a little research and effort at demonstrating new improved techniques——

Mr. FRI. I think small demonstrations might be helpful.

Mr. ROGERS. I think the open ended authority in the bill would give you authority to go directly to the communities. Isn't that the wording in your bill?

Mr. FRI. I think the wordage is fairly broad but that was not our intention.

Mr. ROGERS. That was my interpretation. It may not be your intention. We will try to define some areas in the legislation. I think we are in basic agreement that there is a need for the legislation, a very dramatic need. We are pleased the President has joined the Congress in recognizing this, and we hope we can get out appropriate legislation.

We would appreciate your providing us with the information requested for the record as soon as possible. We want to move on this.

Mr. FRI. We will get them to you.

93D CONGRESS
1ST SESSION

S. 433

IN THE SENATE OF THE UNITED STATES

JANUARY 18, 1973

Mr. ROBERT C. BYRD for Mr. MAGNUSON (for himself, Mr. HART, and Mr. TUNNEY) introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Drinking Water Act of 1973".

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds—

(1) that increasing quantities and types of chemicals, bacteria, viruses, toxic metals, and other contaminants are entering the public water systems that serve as sources which supply the Nation with water for

drinking many of which are either not detected or removed by established water testing and treatment methods and which are consumed by or come in contact with the public, thereby presenting hazards or potential hazards to the public health;

(2) that the public should be provided with adequate quantities of water that is safe for drinking and other human uses;

(3) that the sale and shipment of contaminants of drinking water or products made through the use or production of such contaminants through interstate commerce present a danger to the public from consuming water containing such contaminants;

(4) that the Federal Government has the responsibility of establishing minimum national drinking water standards for all public water systems and to encourage State and local governments to establish equivalent or more stringent standards; and

(5) that State and local governments are in need of Federal assistance in assuring the quality of water required for drinking and other human uses, and to that end the Federal Government should supply technical assistance, research and development information, monitoring, and testing information, assistance for the planning and implementation of comprehensive State

drinking water programs, assistance for the development and demonstration of new or improved methods of making water safe for drinking, and assistance for the training of individuals involved in the management and safe operation of our Nation's public water supply systems.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Agency" means the Environmental Protection Agency.

(3) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(4) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law and having jurisdiction over the supply of water to the public, and an Indian tribe or an authorized Indian tribal organization.

(5) The term "person" includes a State or political subdivision thereof, municipality, corporation, partnership, association, private or public nonprofit institution, or an individual.

(6) The term "public water system" means—

(A) any system which provides drinking water, including bottled drinking water, (i) to ten or more premises not owned or controlled by the supplier of water or (ii) to forty or more individuals receiving such drinking water from a system not serving travelers in interstate commerce;

(B) any system which provides drinking water to carriers serving travelers in interstate commerce;

(C) any system which provides drinking water to facilities or establishments serving travelers in interstate commerce, except that the Administrator may by regulation exempt any such system or class of such systems if he determines that such exemption will not result in any unreasonable threat to public health; and

(D) any other system or class of systems which provides drinking water if the Administrator determines by regulation that such system or class of systems may pose an unreasonable threat to public health.

(7) The term "supplier of water" means any person who controls, owns, or operates a public water system.

(8) The term "Council" means the National Drinking Water Council, established under section 7 of this Act.

(9) The term "contaminant" means any physical, chemical, biological, radiological, or other substance or matter which may cause or transmit infectious disease, chemical

90-224 O - 82 - 49

poisoning, chronic disease, or other impairment to man, or which may have any other deleterious effect on the public health.

(10) The term "bottled drinking water" means water for human consumption sold in a closed container.

NATIONAL DRINKING WATER STANDARDS

SEC. 4. (a) The Administrator shall, after consultation with the Secretary of Health, Education, and Welfare, (A) issue initial proposed regulations prescribing national primary drinking water standards within one hundred and eighty days after the date of enactment of this Act and (B) issue initial proposed regulations prescribing national secondary drinking water standards within one hundred and eighty days after the date of such enactment. The Administrator shall specify in such proposed regulations the date on which such regulations shall take effect, which shall be as soon as is practicable.

(b) (1) National primary drinking water standards, as described under subsection (a) of this section, shall be drinking water standards and programs, the attainment and maintenance of which, are requisite to reasonably protect the public health, except that the Administration shall not prescribe the addition of any substance other than for the purpose of treating contaminants. Such standards—

(A) shall prescribe the maximum permissible levels

for any contaminants which may exist in any public water system in the United States which may cause or transmit disease, chemical poisoning, or other impairments to man, allowing adequate margins of safety;

(B) may apply to any feature of the water supply system including, but not limited to, the treatment, storage, and distribution facilities;

(C) shall include requirements for the adequate operation, maintenance, surveillance, and monitoring of water quality adequate to assure a dependable supply of drinking water which meets the requirements of subparagraph (A); and

(D) shall include requirements for construction and site selection of public water system facilities to protect such facilities from floods and other natural disasters.

(2) National secondary drinking water standards, as described under subsection (a) of this section, shall specify the level of quality of drinking water the attainment and maintenance of which is requisite to reasonably assure aesthetically adequate drinking water. Such standards may apply to any constituent of drinking water (A) which may affect the taste, odor, or appearance of such water, or (B) which may otherwise be necessary to assure aesthetically adequate drinking water.

(3) In establishing or revising standards under this sec-

tion, the Administrator shall take into consideration the views and recommendations of the Council established pursuant to section 7 of this Act.

(c) The Administrator shall publish simultaneously with the issuance of any proposed national primary or national secondary drinking water standard under this section—

(1) Such criteria and information as, in his judgment, are necessary to accurately reflect the nature and extent of all identifiable effects on public health or welfare which may be expected from the presence of the contaminant which is the object of such proposed drinking water standards.

(2) Information and data on drinking water treatment methods and technology for the control of the contaminant which is the object of such proposed drinking water standard. Such information and data shall apply to each feature of the water supply system at which control of the contaminant may be exercised including, but not limited to, treatment, storage, and distribution facilities and the adequate construction, maintenance, and operation thereof. Such information and data shall include the costs of such treatment and the effectiveness of such treatment in controlling such contaminant.

(d) The Administrator shall, at least every three years,

review the adequacy of any national primary or secondary drinking water standard under subsection (a) of this section and the criteria, information, and data published under subsection (c) of this section. The Administrator shall publish his findings in the Federal Register.

ENFORCEMENT OF STANDARDS

SEC. 5. (a) For the purposes of this Act, a State will be considered to have primary enforcement responsibility during any period for which the Administrator has approved a plan in accordance with section 11(d) of this Act and such plan is not being unreasonably deviated from to any significant extent by such State. If any such State has primary enforcement responsibility, the Administrator shall monitor the activities of such State only to the extent necessary to determine if such plan is being unreasonably deviated from to any significant extent. To the maximum extent practicable, any such monitoring shall not duplicate the activities of such State.

(b) (1) Whenever, on the basis of information available to him, the Administrator finds during a period in which a State has primary enforcement responsibility under subsection (a) of this section that any public water system in such State does not comply with any national primary drinking water standard he shall notify the State in which such water system is operating of the noncompliance. If the Adminis-

trator finds that such failure to comply with such standard extends beyond the thirtieth day after such notification he shall give public notice of such failure to comply with such standard and the extent of the dangers posed and shall, if appropriate remedial action has not been taken to prevent any unreasonable endangerment to public health, (i) commence an action under section 16 of this Act, or request the Attorney General to do so, or (ii) issue an order in accordance with subsection (d) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds during a period in which a State does not have primary enforcement responsibility under subsection (a) of this section, that a public water system in such State does not comply with any national primary drinking water standard he shall give public notice of such finding and the extent of the dangers posed, and shall, if appropriate remedial action will not be taken to prevent any unreasonable endangerment to public health, (i) commence an action under section 16 of this Act, or request the Attorney General to do so, or (ii) issue an order in accordance with subsection (d) of this section.

(c) Whenever, on the basis of information available to him, the Administrator finds that any public water system in a State does not comply with any national secondary drinking water standards, he shall notify such State and

request such State to take appropriate remedial action. If, after a reasonable time following such notification, the Administrator finds that such State has not taken remedial action, he shall give public notification of such finding in a manner suitable to inform users of such public water system of such violation.

(d) (1) Any order issued under subsection (b) of this section shall specify such relief as may be appropriate to prevent any unreasonable endangerment to public health. Such relief may include an order requiring the person responsible for the violation which results in the order to cease such violation, to notify customers of such violation in accordance with section 11 (d) (8) of this Act, or to furnish emergency supplies of drinking water.

(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code.

IMMINENT HAZARDS

SEC. 6. (a) An imminent hazard shall be considered to exist when there is reason to believe that a constituent of the drinking water of a public water system will result in a serious risk to health prior to the conclusion of an administrative hearing or other formal proceeding held pursuant to this Act and that a State or local authority or the supplier of water has not acted to eliminate such risk.

(b) If an imminent hazard exists, the Administrator may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to order such action as is necessary to eliminate the imminent hazard. The Administrator shall simultaneously, if he has not previously done so, propose any regulation which might be necessary under section 4 of this Act, or he may commence an action under section 16 of this Act.

NATIONAL DRINKING WATER COUNCIL

SEC. 7. (a) There shall be established in the Environmental Protection Agency a National Drinking Water Council consisting of fifteen scientifically qualified members. The Administrator shall appoint members of the board from a list of individuals recommended to him by the National Academy of Sciences or from such other sources as he deems advisable. Such Council shall include qualified scientists none of which shall have any economic interest in the supply of drinking water and not more than one-third of which shall have any responsibility for the regulation of drinking water. Each member of such Council shall hold office for a term of three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term;

(2) the terms of the members first taking office shall expire as follows—(i) five shall expire three years after the date of enactment of this Act, (ii) five shall expire two years after such date, and (iii) five shall expire one year after such date, as designated by the Administrator at the time of appointment; and

(3) the members of such Council shall be eligible for reappointment.

(b) The National Academy of Sciences shall maintain a list of qualified scientists to assist the Administrator in appointing members to such Council.

(c) Such Council shall advise, consult with, and make recommendations to the Administrator on matters relating to the scientific review of data, including engineering data, relating to the activities of the Agency under this Act. Such Council shall, upon the request of the Administrator, review any proposed action of the Administrator and shall report its views and reasons therefor in writing to the Administrator within a reasonable time, as specified by the Administrator. All proceedings and deliberations of such Council and their reports and reasons therefor shall be public record. The report of the Council and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrators' action.

(c) The Administrator is authorized to reimburse the

National Academy of Sciences for expenses incurred in carrying out this section.

(d) Members of such Council who are not regular full-time employees of the United States shall, while serving on business of the Council, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS–18 of the Classified Civil Service, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5701 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 8. (a) The Adminstrator shall conduct and promote the coordination of research, studies, and investigations and render financial, technical, and other assistance to appropriate public agencies, institutions, water supply utilities, and individuals in the conduct of research, studies, and investigations relating to the causes, diagnosis, treatment, control, and prevention of diseases and impairments of man resulting directly or indirectly from contaminants in drinking water, or to the provision of an adequate quality and quantity of safe

drinking water. Such research, studies, or investigations may include, but shall not be limited to, the development of—

(1) new and improved methods to identify and measure the existence of contaminants in drinking water and to identify the source of such contaminants;

(2) new and improved methods to identify and measure the health effects of contaminants in drinking water;

(3) new and improved methods of treating water to prepare it for drinking, to improve the efficiency of water treatment and to remove contaminants from the water; and

(4) new and improved methods for providing adequate quantities of safe water for drinking to the public, including improvements in water purification and distribution, and methods of assessing the health related hazards of other characteristics of drinking water supplies.

(b) In carrying out this Act, the Administrator is authorized to—

(1) collect and make available information pertaining to research and investigations, with respect to providing adequate quality and quantity of safe drinking water together with appropriate recommendations in connection therewith;

(2) make available research facilities of the Agency to appropriate public agencies, institutions, water supply utilities, and individuals engaged in studies and research relating to water supply; and

(3) make grants to, and contracts with, any State or other public agency, educational institution, water supply utility, any other organization, and individuals in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

(A) to develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the management and safe operation aspects of providing safe drinking water; and

(B) to train instructors and supervisory personnel to train or supervise persons in occupations involving the management and safe operation aspects of providing safe drinking water.

(c) There is hereby authorized to be appropriated to carry out the provisions of this section $14,000,000 for the fiscal year ending June 30, 1974; $23,000,000 for the fiscal year ending June 30, 1975; and $31,000,000 for the fiscal year ending June 30, 1976. Sums appropriated pursuant to

this section shall remain available for obligation through the close of the following fiscal year.

RURAL WATER SURVEY

SEC. 9. (a) The Administrator shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability or rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having inadequate access to or no access to drinking water; and

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard.

(b) Such survey shall be completed within two years of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) There is hereby authorized to be appropriated

to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1974; $2,000,000 for the fiscal year ending June 30, 1975; and $1,000,000 for the fiscal year ending June 30, 1976.

SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS

SEC. 10. (a) The Administrator is authorized to make grants to appropriate public and private agencies, institutions, water supply utilities, and individuals for the purposes of—

(1) assisting in the development and demonstration of any project which will demonstrate a new or improved method, approach, or technology for providing a safe supply of drinking water to the public in both urban and rural areas of the Nation; and

(2) assisting in the development and demonstration of any project which will investigate and demonstrate the health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and related uses or which will demonstrate processes and methods for the safe and esthetic preparation of such waters.

(b) Grants made by the Administrator under this section shall not—

(1) exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator;

(2) be made for any project involving the construction or modification of any facility in any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water; and

(3) be made for any project unless the Administrator determines, after consulting the Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking or other useful purposes.

(c) Nothing in this section shall affect the authority of the Administrator to make grants for Alaska village safe water and pollution elimination or control demonstration projects under section 113 of the Federal Water Pollution Control Act (86 Stat. 832).

(d) For the purposes of this section there is hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1974; $5,000,000 for the fiscal year ending June 30, 1975; and $10,000,000 for the fiscal year ending June 30, 1976.

STATE DRINKING WATER SUPPLY PROGRAM GRANTS

SEC. 11. (a) There is hereby authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1974;

$15,000,000 for the fiscal year ending June 30, 1975; and $21,300,000 for the fiscal year ending June 30, 1976 for grants to the States to assist them in establishing and maintaining adequate programs to assure the safety of public drinking water under this section.

(b) From the sums available pursuant to subsection (a) for any fiscal year the Administrator shall from time to time make payments to the several States, in accordance with regulations, on the basis of (1) the population, (2) the financial needs, and (3) the extent of the actual or potential water supply problem, except that any such payment shall not be greater than an amount equal to two-thirds of the cost of any such State program.

(c) The Administrator shall pay to each State an amount equal to its allotment under subsection (b) for the purposes of defraying the cost of carrying out its State plan approved under subsection (d) of this section, including the cost of training personnel for State and local public water supply work and the cost of administering the State plan. Such payments shall not be made if such plan has not been approved by the Administrator.

(d) The Administrator shall approve any plan for establishing and maintaining a program to assure the safety of public drinking water which is submitted by the State, if such plan—

(1) provides for the formal adoption by the State of drinking water standards which are no less stringent than the national primary drinking water standards prescribed under section 4 of this Act;

(2) provides for the adoption by the State of appropriate regulations and procedures for the implementation and enforcement of such State standards;

(3) provides for administration or for the supervision of administration of the plan by the State agency charged with the responsibility for the safety of drinking water;

(4) sets forth the plans, policies, and procedures to be followed in carrying out the State plan;

(5) provides for such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan;

(6) provides that the appropriate State agency will make annual reports, or such more frequent reports as the Administrator may reasonably require, in such form and containing such information as he may require;

(7) provides for the establishment of an emergency plan of action for each public water system within the State for use in case of an emergency affecting the safety of the treated drinking water or the effective

90-224 O - 82 - 50

operation of the treatment facility, including provision for emergency reserves or alternate sources of water suitable for drinking and culinary purposes; and

(8) provides for the implementation of a standards violation notification procedure, whereby any supplier of water found to be in violation of any Federal or State drinking water standard will be required to so notify its customers, in transmitting water bills or through other appropriate means, of the nature and extent and possible health effects of such violation and the remedial measures which will be taken to correct the problem.

(e) If a State plan has been approved, and the Administrator subsequently finds that such plan is being unreasonably deviated from to any significant extent, the Administrator is authorized to terminate any further payments under this section to such State.

(f) Any approval or disapproval of a State plan under subsection (d) of this section, or termination of payments under subsection (e) of this section, shall be in accordance with and subject to the procedures and judicial review provisions of section 12 of this Act.

(g) For the purposes of determining whether any State plan approved under subsection (d) of this section is being unreasonably deviated from to any significant extent, the Administrator shall cause to be made, at least once every

three years, a complete audit of such State's water supply programs.

REGULATIONS, PROCEDURE, AND JUDICIAL REVIEW

SEC. 12. (a) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act and to amend or rescind such regulations at any time.

(b) The Administrator shall publish any regulations proposed under this Act, or proposals to amend or rescind such regulations, and his justification therefor in the Federal Register at least sixty days prior to the time when such regulations shall become final. The Administrator shall also publish in the Federal Register a notice of all petitions received under subsection (a) and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data, views,

or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(c) Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and the relationship of such findings to the regulations issued.

(d) Any judicial review of final regulations promulgated under this Act shall be in accordance with section 701–706 of title 5, United States Code, except that, with respect to relief pending review, no stay of an Agency action may be granted unless the reviewing court determines that the party seeking such stay (a) is likely to prevail on the merits in the review proceeding and (b) will suffer irreparable harm pending such proceeding.

(e) Except as expressly modified by the provisions of this section, the provisions of chapter 5, of title 5 of the United States Code, shall apply to proceedings conducted by the Administrator under this Act.

(f) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either (1) that the information is material and was not available at the time of the proceeding before the Administrator or (2) that failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator, the court may order such

additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

RECORDS

SEC. 13. (a) Every supplier of water who is subject to a standard prescribed under section 4 or grantee shall establish and maintain such records, make such reports, and provide such information as the Administrator shall reasonably require to assist him in establishing standards and regulations under this Act and in determining whether such person has acted or is acting in compliance with this Act. Suppliers of water and others subject to State enforcement under section 4(c) of this Act shall submit such reports and make available such records and information to the appropriate State agency for inclusion in State reports required under section 11(d)(6) of this Act.

(b) Any officer or employee duly designated by the Administrator, upon presenting appropriate credentials and a

written notice of inspection authority to any supplier of water subject to a standard prescribed under section 4 of this Act or any grantee (or person in charge of any of its property), is authorized to enter any establishment or facility or other property of such person in order to determine whether such supplier or grantee has acted or is acting in compliance with this Act, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. Each inspection shall be commenced and completed with reasonable promptness and the supplier or grantee notified of the results of such inspection.

(c) For purposes of this section, the term "grantee" means any person who receives financial assistance under this Act.

STATE REGULATIONS

SEC. 14. Nothing in this Act shall affect the authority of any State or local government to establish drinking water standards or to make other requirements for purposes similar to those contained in this Act, except that any such standards or requirements shall not be less stringent than the requirements of this Act or regulations thereunder.

PROHIBITED ACTS

SEC. 15. The following acts and the causing thereof are prohibited:

(1) The failure to comply with any final regulation issued by the Administrator pursuant to this Act, except that noncompliance with a national secondary drinking water standard under section 4(b) of this Act is not prohibited;

(2) The failure or refusal to establish and maintain records, make reports, and provide information as required under section 13(a) of this Act;

(3) The refusal to allow entry and inspection of establishments, facilities, or other property pursuant to section 13(b) of this Act; or

(4) The failure of any person to comply with any order issued under section 5(d) of this Act.

PENALTIES AND REMEDIES

SEC. 16. (a) Any person willfully violating section 15 of this Act shall on conviction be fined not more than $15,000 for each day of violation or imprisoned for not more than one year, or both.

(b) (1) Any person not willfully violating section 15 of this Act shall be liable to the United States for a civil penalty of a sum which is not more than $10,000 for each day of violation, to be assessed by the Administrator after notice and opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States

Code, and after he has considered *the nature, circumstances,* and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

(2) Upon failure of the offending party to pay the civil penalty, the Administrator may commence an action in an appropriate district court of the United States for such relief as may be appropriate or request the Attorney General to commence such an action.

(c) The Attorney General or the Administrator may bring an action in the appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of section 15 of this Act, and the district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

CITIZEN CIVIL ACTION

SEC. 17. (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amend-

ment to the Constitution) who is alleged to be in violation of any national primary drinking water standard promulgated under section 4 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to any alleged violator of such standard and (iii) to the State in which the violation occurs,

(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such standard, but in any such action any person may intervene as a matter of right.

(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any national primary drinking water standard or to seek any other relief.

CONFIDENTIALITY

SEC. 18. (a) Copies of (1) any communications, documents, reports, or other information received or sent by the Administrator or (2) the results of any drinking water quality analyses or other information pertaining to drinking water quality possessed by the Administrator shall be made available to the public upon identifiable request, and at reasonable cost unless such information may not be

publicly released under the terms of subsection (b) of this section.

(b) (1) The Administrator or any officer or employee of the Agency or the Council established under section 7 of this Act shall not disclose any information which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed by the Administrator—

(A) to other Federal government departments, agencies, and officials for official use, upon request, and with reasonable need for such information;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

(D) if relevant in any proceeding under this Act, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

(E) to the public in order to protect their health, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the person to which the information appertains (if the

delay resulting from such notice and opportunity for comment would not be detrimental to the public health). In no event shall the names or other means of identification of injured persons be made public without their express written consent.

(2) Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter presently under consideration in a rulemaking or adjudicative proceeding in the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is communication entitled to protection under subsection (b) of this section.

FEDERAL FACILITIES

SEC. 19. (a) Except as provided for in subsection (b) of this section, each Federal department or agency having jurisdiction over any building, installation, or other property, which is or will be served by a federally owned or maintained public water system, shall comply with all national

primary drinking water standards prescribed under section 4 of this Act and shall, to the maximum extent practicable, comply with any national secondary drinking water standard prescribed under such section.

(b) The Administrator may waive compliance with the requirements of subsection (a) of this section, in whole or in part, upon receiving information from the Secretary of Defense or from the Secretary of the Department in which the United States Coast Guard is operating that such waiver is in the interest of national security. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for good cause shown by the Secretary of Defense or by the Secretary of the Department in which the United States Coast Guard is operating, in the interest of national security, unless the Administrator has been requested by the applicable Secretary to omit such publication because it would be contrary to the interests of national security.

RELATIONSHIP TO OTHER LAWS

SEC. 20. The authority of the Secretary of Health, Education, and Welfare to regulate bottled drinking water under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, et seq.) shall be repealed on the effective date of initial national primary drinking water standards pertaining to bottled drinking water under section 4 of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 21. In addition to the authorizations contained in sections 8, 9, 10, and 11, there are hereby authorized to be appropriated such sums as may be necessary, but not to exceed $8,000,000, $11,000,000, and $13,000,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of the Act.

Calendar No. 220

93D CONGRESS
1st Session

SENATE

REPORT
No. 93-231

SAFE DRINKING WATER ACT OF 1973

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 433

TO ASSURE THAT THE PUBLIC IS PROVIDED WITH AN ADEQUATE QUANTITY OF SAFE DRINKING WATER, AND FOR OTHER PURPOSES

JUNE 20, LEGISLATIVE DAY JUNE 18, 1973.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973

CONTENTS

	Page
Summary and purpose	1
Need for the legislation	2
Legislative background	4
Section-by-section analysis	4
Cost estimate	19
Changes in existing law	20
Text of S. 433 as reported	20
Agency Comments	34

Calendar No. 220

93D CONGRESS
1st Session

SENATE

REPORT
No. 93-231

SAFE DRINKING WATER ACT OF 1973

JUNE 20, LEGISLATIVE DAY JUNE 18, 1973.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 433]

The Committee on Commerce, to which was referred the bill (S. 433) to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

SUMMARY AND PURPOSE

The proposed legislation would establish a program within the Environmental Protection Agency (EPA) to regulate drinking water. Currently, the regulation of public drinking water systems is primarily a State responsibility. The Federal Government does exercise some control over drinking water aboard interstate carriers under the Public Health Service Act (42 U.S.C. 201, *et seq.*) but that authority is limited to prohibiting the use of contaminated water aboard carriers and does not apply directly to the system supplying water to the carrier or to other drinking water systems.

Under S. 433, prime responsibility for maintaining the quality of drinking water will remain with State and local government, but the Federal Government will exercise a new responsibility to set standards and provide assistance in order to protect public water supplies from contamination.

As reported by the Committee on Commerce, the proposed legislation provides that—

(1) EPA establish minimum Federal drinking water standards prescribing maximum limits for contaminants as well as standards for the operation and maintenance of drinking water systems and surveillance, monitoring, site selection and construc-

90-224 O - 82 - 51

tion standards for public water systems to assure safe dependable drinking water;

(2) EPA establish recommended standards to assure esthetically adequate drinking water;

(3) the States could establish standards which are more stringent than the Federal drinking water standards;

(4) the States will be primarily responsible for enforcing the standards with Federal enforcement if the States fail to act or in cases of imminent hazard;

(5) a National Drinking Water Council be established to advise the administrator on scientific and engineering matters;

(6) EPA conduct and promote research, technical assistance, and training of personnel for water supply occupations;

(7) EPA conduct a rural water survey within two years of enactment;

(8) EPA make grants for special study and demonstration projects with respect to water supply technology;

(9) EPA make grants to the States to defray the costs of State programs; and

(10) citizens be authorized to bring injunctive suits against violators of primary drinking water standards and against the Administrator for failing to perform mandatory duties.

Need for the Legislation

No need is more basic for all human beings than a dependable, disease-free supply of drinking water. The supply of adequate amounts of high quality drinking water has become a service that is not only hoped for but expected.

Yet, despite our needs and expectations, quality drinking water available at the tap has not become a reality. Dr. J. H. Lehr, Executive Director of the National Water Well Association clearly described the problem in hearings before the Subcommittee on the Environment:

> Overconfidence or apathy seems to pervade the public's attitude with respect to drinking water. Common daily experience plus a current myth about the future, falsely implies that the quality, safety and adequacy of our municipal water supply systems are above reproach. Perhaps the myth can be stated as follows: "Everyone knows we have launched a massive water pollution control effort and that waterborne disease outbreaks are a thing of the past."
>
> This statement is simply not true and the dangers of this misinformation are illustrated by the epidemic at Riverside, California in 1965 which affected 18,000 people, the 30 percent gastroenteritis attack rate in Angola, New York in 1968 due to a failure in the disinfection system, and the 60 percent infectious hepatitis attack rate which affected the Holy Cross football team in 1969 as a result of ineffective cross connection control procedures.
>
> The recent discovery of critical amounts of mercury in our water supplies as a result in industrial waste disposal is

more conclusive evidence of the existence of very current water hygiene problems.[1]

In mid-1970, what is now the Division of Water Supply Programs of the Environmental Protection Agency completed a study of 969 drinking water supply systems. According to that study, approximately 8 million people in this country are served water that is potentially dangerous in that it fails to meet the mandatory standards set by the Federal Government with respect to interstate carrier systems. In the majority of cases, the deficient systems were smaller systems serving smaller communities.

During the ten-year period from 1961 to 1970, there were at least 128 known outbreaks of disease or poisoning attributed to drinking water. Most of these 128 outbreaks were a result of drinking water from a system not controlled by a municipality, but rather from private systems serving, for example, restaurants, camp grounds, gas stations, hospitals, and State institutions.

Seventy-nine percent of the systems checked had no sanitary survey by regulatory officials in the year preceding the survey, with only 64 percent having had a sanitary survey in the preceding three years. Ninety percent failed to meet the biological surveillance criteria of the current drinking water standards for interstate carriers, with 85 percent failing to take the minimum of samples over a given period of time.

At hearings of the Subcommittee on the Environment on May 31, the General Accounting Office reported on the results of a six state survey on drinking water programs. The results add to EPA's earlier findings. Mr. Henry Eschwege, Director of the Resources of Economic Development Division of GAO testified:

> Of the 446 systems [checked in the survey], only 60 were in compliance with both federal bacteriological and sampling requirements and could be classified as approved.
>
> Mr. Chairman, on the basis of our review we believe that the local governments and utilities need to expand, replace, or improve water treatment facilities.
>
> The States need to improve their water quality monitoring programs. The States need to insure that water treatment plant operators are qualified and adequately trained, and the States, local governments, and utilities need to establish more effective programs for eliminating cross connections. These are physical connections between drinking water distribution systems and systems containing substances which could contaminate the drinking water.

Mr. Eschwege continued:

> In conclusion, Mr. Chairman, we believe that legislation before this subcommittee is designed to provide reasonable solutions to the problems we identified.

A common misconception is that cleaning up our rivers and lakes through pollution control will result in adequate water for drinking

[1] Hearing before the Committee on Commerce, United States Senate, March 20, 1972, Serial No. 92–57.

and further work will not be necessary. However, few have argued that water pollution control will have the immediate effect that will be necessary to prevent drinking water contamination. In addition, conditions within the drinking water system must be regulated to prevent contamination after it comes from the raw source. Finally, drinking water may be contaminated from non-pollution sources; for example, alkaline water in many of our western States. Drinking water is not perfect in nature and even if pollution were to stop immediately, problems in drinking water supply would still exist.

An illustration of the imbalance that has existed with respect to drinking water supply programs and water pollution control efforts can be found in a comparison of the Federal funding levels of the two. Current Federal funding of the water pollution control effort now exceeds $1 billion per year. In contrast, Federal efforts with respect to drinking water supply programs reached only $4.3 million in fiscal year 1973. Even with the $10 million added that the States spend annually on drinking water supply programs, the imbalance is great indeed.

Legislative Background

On January 18, 1973, Senators Magnuson, Hart, and Tunney introduced S. 433, the Safe Drinking Water Act of 1973. Twenty cosponsors were added later. S. 433 is similar to S. 3994 which passed the Senate in the 92d Congress.

The Administration's bill, S. 1735, was introduced by Senators Magnuson and Cotton, by request on May 8, 1973.

A hearing was held on May 31 on both S. 433 and S. 1735.

On June 5, the Committee ordered S. 433, with amendments, reported.

Similar legislation (H.R. 1059 and others) is pending before the House Committee on Interstate and Foreign Commerce.

Section by Section Analysis

Section 1. Short title

The short title of the proposed legislation is the "Safe Drinking Water Act of 1973."

Section 2. Findings

This section establishes Congressional findings with respect to drinking water as follows—(1) increasing quantities of contaminants are entering public water systems and that many of these contaminants are neither detected nor removed by existing treatment methods; (2) the public should be provided with adequate quantities of drinking water and that the origins of such contaminants involve interstate commerce resulting in a responsibility of the Federal Government to establish minimum standards for all public water systems and to encourage State and local governments to establish similar or more stringent standards; and (3) the Congress recognizes the needs of State and local governments for assistance to assure quality water for drinking and other human uses and that the Federal Government should supply technical assistance, research, monitoring, and testing information as well as assistance to the States in operating drinking water surveillance programs.

Section 3. Definitions

This section defines the various terms used throughout the proposed legislation. Of particular importance is the definition of the term "public water system" as this definition defines the reach of the proposed legislation with respect to the Federal regulation of drinking water systems.

As defined, the term has four elements. First, the term means "any system which provides drinking water, including bottled drinking water, (i) to ten or more premises not owned or controlled by the supplier of water or (ii) to forty or more individuals receiving such drinking water from a system not serving travelers in interstate commerce." Included within this definition are all public water systems except those small systems serving premises which number less than ten. In addition, small factories or other businesses which serve 40 or less people would be excluded from coverage. While many States regulate systems serving less than ten premises or 40 individuals, the evidence with respect to the extent of the problem with extremely small systems aside from facilities serving interstate travelers remains inconclusive. While some studies have indicated problems with certain types of individual water wells, it is felt that Federal regulation should concentrate, at least initially, on the larger water supply systems. However, if future studies clearly define the problems with the small systems, such systems could be included within the regulatory framework under the fourth element of the definition described below.

Second, the definition includes "any system which provides drinking water to carriers serving travelers in interstate commerce." Current Federal authority with respect to drinking water is limited to the regulation of drinking water aboard interstate carriers. In order to provide more effective regulation of this source of drinking water, it is intended to include the systems which supply carriers.

Third, the definition includes "any system which provides drinking water to facilities or establishments serving travelers in interstate commerce, except that the Administrator may by regulation exempt any such system or class of such systems if he determines that such exemption will not result in any unreasonable threat to public health." This element of the definition includes all individual water supply systems which serve facilities serving interstate travelers, including such facilities as restaurants, campgrounds, and service stations. Studies by the Environmental Protection Agency have indicated that of the 128 outbreaks of illness attributable to drinking water that occurred from 1961 through 1970, 28 of these outbreaks were attributable to restaurants, campgrounds, and service stations. In addition, EPA studies of these types of facilities along interstate highways in Virginia, Oregon, and Kansas have indicated that 56% of such systems checked exceeded either the recommended or mandatory limits now in effect for water aboard interstate carriers. In addition, 15% exceeded bacteriological standards and 92% were found to have inadequate bacteriological monitoring. The General Accounting Office, in its report to the committee confirmed the fact that serious problems exist with respect to such systems. Thus, this portion of the definition includes those establishments which have been the cause of illness, but would allow the Environmental Protection Agency to exempt any such sys-

tem or class of systems if unreasonable threats will not result. Thus, if a State is doing a proper job of regulating such establishments or facilities or if self regulation of a class of facilities is sufficient, EPA could then exempt those facilities or establishments. EPA would be expected to determine which system or classes of systems would qualify for an exemption under this portion of the definition as soon as is possible. Until such time as those determinations are made systems serving interstate travelers will be included within the regulatory framework of the proposed legislation. However, as a practical matter, EPA will be expected to concentrate its enforcement efforts under section 5 on those systems for which problems have been demonstrated.

Finally, the definition includes "any other system or class of systems which provides drinking water if the Administrator determines by regulation that such system or class of systems may pose an unreasonable threat to public health." This portion of the definition would allow EPA to include within the umbrella of Federal-State regulatory responsibility those small systems not included within the other elements of the definition if studies by the Environmental Protection Agency or other competent sources indicate that unreasonable threats to health may exist with respect to such small systems.

Section 4. National Drinking Water Standards

This section requires the Administrator, after consulting with the Secretary of Health, Education, and Welfare, to issue initial proposed regulations prescribing national primary drinking water standards within 180 days after the date of enactment of this Act. National primary drinking water standards are those standards and programs which are requisite to reasonably protect the public health.

The Administrator would be prohibited from requiring the addition of any substance other than for the purpose of treating contaminants. Thus, EPA could not require the addition of fluorides or other substances to a public water supply system for medicinal purposes. Nor could EPA prevent the addition of fluorides up to maximum allowable under the standard. While EPA could not require the addition of a substance for medicinal purposes, it would have full authority to limit the addition of such a substance if necessary to prevent excessive levels from occurring.

The national primary drinking water standards will contain four separate features.

First, the standards are to prescribe the maximum permissible levels of any contaminants which may exist in any public water supply system.

Second, the standards may apply to any feature of the water supply system, including the treatment, storage, and distribution facilities. This element of the standards will be of particular importance in regulating bottled drinking water. For example, EPA may choose to limit the type of container in which bottled drinking water may be stored or sold to prevent contamination. Standards might also be set to place limits on the shelf life of bottled drinking water in order to prevent the build-up of bacteria or other organisms while on the shelf. With respect to municipal or other water supply systems, standards could be set for the type of treatment facilities required in order to ensure a back-up capability if the primary treatment facility should

fail. For example, EPA may require dual chlorination systems so that the supply of drinking water would not cease if the primary system failed.

Third, the standards shall include requirements for the adequate operation, maintenance, surveillance, and monitoring of water quality. The community water supply study, completed by EPA in 1971, revealed that many water supply systems were operated by improperly trained personnel. A requirement under this portion of the standards could establish minimum qualifications for water supply systems operators. To assure that quality water is provided on a continuing basis, the standards are also to include surveillance and monitoring of water quality as well as standards for sanitation and other facets of operation. This portion of the standards will be particularly useful in reducing the hazards of lead in drinking water. As demonstrated recently in Boston, lead pipes in homes can cause lead levels at the tap to reach hazardous proportions. The problem is acute when the drinking water is acidic. For example, the ph of Boston drinking water ranges from approximately 5.5 up to about 6.5. Consequently, if the ph of drinking water like Boston's is raised to approximately 8.0, the corrosive properties of the water are greatly reduced and lead in drinking water from lead pipes in homes ceases to be a problem. In such cases, EPA would be expected to require the addition of an alkaline substance to raise the ph of the drinking water to appropriate levels.

Finally, standards shall be set for site selection and construction of public water supply systems to protect facilities from floods and other natural disasters. During the 1972 floods associated with hurricane Agnes, many public water supply systems, particularly the smaller systems, were vulnerable to flood waters. Because of the record high waters, the loss of many of these systems was unavoidable. However, if the site selection and construction standards had been in effect, many other systems might have been saved or damage reduced with only a minimum of inconvenience.

With respect to the second, third, and fourth elements of the standards, it is anticipated that levels of performance will vary to meet the needs of the various classes of systems which will be regulated. For example, it may be entirely proper to require a higher degree of expertise and training of the operators of a large metropolitan water supply system than of an operator of an individual system serving a restaurant. Likewise, monitoring and surveillance of water supply systems should be tailored to reasonably protect the public health. Again, stiff requirements could be imposed on the larger systems which have the potential of affecting large numbers of people, while lesser requirements might be appropriate for smaller systems where the threat of widespread illness is less severe or where other factors make stiff requirements unreasonable.

This section also requires the Administrator to issue proposed regulations prescribing national secondary drinking water standards within the same 180 day period after the date of enactment of this Act. National secondary drinking water standards are to be advisory in nature and will specify a level of quality which is requisite reasonably to assure aesthetically adequate drinking water. The standards

could apply to any constituent of drinking water which may affect taste, odor or appearance or which might otherwise be necessary to assure aesthetically adequate drinking water. The Administrator must consider the difficulties that may arise in different areas of the country to achieve aesthetically adequate drinking water. Thus, the standards could vary according to geographic area depending upon what can reasonably be achieved. The committee recognizes that a given contaminant may be of public health significance at one level and of aesthetic significance at a lower level. For example, the presence of copper in drinking water at low levels is primarily of aesthetic concern. However, as the levels of copper rise, adverse physiological effects might become evident. Thus it may be preferable to specify that a given limit has aesthetic significance rather than to specify a given contaminant as being of aesthetic significance. EPA would be expected to take these factors into account in prescribing both national primary and secondary drinking water standards.

In establishing and revising standards under this section, the Administrator is to take into consideration the views and recommendations of the National Drinking Water Advisory Council established under section 7 of the Act.

At the time any national primary or secondary drinking water standard is proposed, the Administrator would be required to publish such criteria and information as is necessary to reflect the nature and extent of the identifiable effects on public health which might be expected from the presence of any contaminant which is the object of the proposed drinking water standard. The Administrator would also be required to publish information and data on drinking water treatment methods and technology for the control of such contaminant.

The purpose of this provision is to require EPA to publish the types of information that form the criteria for any national primary or secondary drinking water standard. Thus, all of the information which is relevant to the interests the Administrator must weigh in setting standards will be published and available for public scrutiny.

The Administrator would be required to review the adequacy of primary and secondary drinking water standards at least once every three years. The purpose of this requirement is to assure EPA's self-examination of the standards. The standards now in effect with respect to drinking water aboard interstate carriers were last revised in 1962. Although revision is currently underway, these efforts are long overdue. While any interested party will have the right to petition EPA for a change in the standards, self-examination by EPA of the standards should be a positive force to keep the standards current.

Section 5. Enforcement of Standards

This section establishes the relationship between the Federal and State governments with respect to enforcement of drinking water standards.

A State will retain primary enforcement responsibility if it is operating under a plan approved under section 11(d) and such plan is not being unreasonably deviated from to any significant extent. With respect to this subsection, the phrase "unreasonably deviated from to any significant extent" must be interpreted in terms of the quality of the State's enforcement effort and whether the State can

better enforce the standards than EPA even though significant deviations from the plan exist. Whereas under section 11(e) the phrase "unreasonably deviated from to any significant extent" relates to the good faith efforts made by a State to comply with its plan, the meaning of the phrase under this subsection must relate to the factors described above. However, should a State not have primary enforcement responsibility under this section it could still be eligible for program grants under section 11 to fund its drinking water program even though it is unable to prevent significant deviations from that plan due to circumstances reasonably beyond its control, if the State is attempting in good faith to comply with its plan.

If a violation of a national primary drinking water standard is detected within a State which has primary enforcement responsibility, EPA would not be authorized to bring an enforcement action of its own until 30 days after the Administrator notifies the State. If the violation continues past 30 days after such notification, the Administrator would be required to give public notice of the failure to comply and the extent of the dangers posed and, if appropriate remedial action has not been taken, to commence an enforcement action under section 16 or issue an administrative order in accordance with subsection (d) of this section. Thus, if a State is doing a proper job of enforcement, or a supplier of water has taken appropriate action, EPA could not bring an action of its own. On the other hand, if a State is not aggressively pursuing its action, EPA would be authorized to bring a suit of its own in Federal court. Additionally, the Administrator would be authorized to take action under section 6 when imminent hazards are posed.

While national primary drinking water standards will specify a maximum limit for contaminants, the point in time at which such contamination becomes unreasonable will vary depending upon the contaminant. For example, if a contaminant presents a hazard of acute toxicity, the unreasonable risk may occur in a very short period of time and EPA should not delay in enforcing the standard after the thirty-day grace period. If, however, the contaminant presents hazards that are of a chronic or long-term nature, unreasonable threats may not occur until much later. In the latter case, EPA would give greater latitude to the supplier of water or the State to remedy the problem without bringing an enforcement action.

If a State does not have primary enforcement responsibility, EPA would be required to give public notice of any violations it finds upon the detection of the violation along with a notice of the dangers to develop a new standard, EPA or the Attorney General would be required to commence an enforcement action under section 16 or issue an administrative order in accordance with subsection (d) of this section. To cite an example, assume that EPA detects a violation of primary drinking water standards and gives public notice. In order to eliminate the violation, a city council may have to meet to authorize funds for the construction of facilities. If the city council meets and the Administrator is satisfied that the necessary facilities will be installed to prevent any unreasonable threats, he would not bring an action or issue an administrative order. On the other hand, if he is not so satisfied, enforcement action would follow.

Any notification required by EPA under this section for violations of national primary drinking water standards should be given through local newspapers or by any other means which will alert users of the public water system of the standard being violated and the extent of the dangers posed.

If the Administrator finds that a national secondary drinking standard, or aesthetic standard, is being violated, he would be required to notify the State in which the violation takes place and request such State to take appropriate remedial action. If, after a reasonable length of time following such notification, the Administrator finds that such State has not taken action, the Administrator would be required to give public notification of such finding in a manner suitable to inform users of such violation.

Finally, subsection (d) authorizes the Administrator to issue administrative orders in the appropriate cases described above. Any such order could include such relief as may be appropriate to prevent any unreasonable endangerment to public health. Such relief could include a requirement to cease the violation, to notify customers of the violation, or to furnish emergency supplies of drinking water. Administrative orders would be issued after opportunity and notice for an adjudicative hearing in accordance with section 554 of title 5, United States Code.

Section 6. Imminent Hazards

This section authorizes the Administrator, or the Attorney General upon request of the Administrator, to petition the district courts to issue orders to eliminate imminent hazards. An imminent hazard is defined to exist "when there is reason to believe that a constituent of the drinking water of a public water system will result in a serious risk to health prior to the conclusion of an administrative hearing or other formal proceeding held pursuant to this Act, and that a State or local authority or the supplier of water has not acted to eliminate such risk."

There are two instances under which imminent hazards could occur under the proposed legislation. First, a violation of an applicable national primary drinking water standard may be so severe so as to present a serious risk to health prior to the conclusion of the thirty-day grace period for State enforcement. If the State or the supplier of water has not acted to eliminate the risk, the Administrator or the Attorney General, would be authorized to seek a court order to eliminate the imminent hazard.

Second, new information may arise which demonstrates the inadequacy of an existing standard. If the evidence shows that a serious risk to health would occur prior to the rulemaking proceedings necessary to develop a new standard, EPA or the Attorney General would be authorized to seek a court order immediately changing the standard. In that case, the Administrator would also be required simultaneously to propose a regulation to change the standard.

Section 7. National Drinking Water Council

This section would require the Administrator to establish a National Drinking Water Council consisting of fifteen scientifically qualified members. The purpose of the Council is to advise the Administrator

on scientific matters relating to the activities of EPA under this Act. Of the fifteen members of the Council, none could have an economic interest in the supply of drinking water. As State and local regulatory officials could provide valuable advice for the Administrator with respect to his activities under the Act, provision is made for representation on the Council of individuals responsible for the regulation of drinking water. To insure that the Council is not dominated by such officials, this section further specifies that not more than one-third of the members shall be regulatory officials. The terms of the members will be staggered to provide an orderly turnover of Council members.

Any report and dissenting views of the Council will be considered as a part of the record in any proceeding taken with respect to the Administrator's actions. It is intended that the meetings and deliberations of the Council will be open to the public and that qualified scientists who are not members of the Council will have an opportunity to make their views known.

The Administrator would be required to appoint members of the Council from individuals recommended to him by the National Academy of Sciences or from such other sources as he may deem advisable. The Administrator is authorized to reimburse the Academy for its expenses incurred in carrying out this section. Members of the Council who are not employees of the United States will receive compensation and travel expenses as authorized by section 5701 of title 5, United States Code, for persons in the government service employed intermittently.

Section 8. Research, Technical Assistance, Information, Training of Personnel

This section requires the Administrator to conduct and promote the coordination of research, studies, and investigations into the problems of drinking water. The Administrator would be authorized to render financial, technical, and other assistance to public agencies, institutions, water supply utilities, and individuals in the conduct of research and investigations relating to contaminants of drinking water, or to the provision of adequate supplies of safe drinking water.

The state of the art with respect to drinking water problems is in many respects primitive. For example, the Environmental Protection Agency testified at hearings of the Subcommittee on the Environment that viruses are suspected of being present in finished drinking water. While the evidence is as yet incomplete, these initial findings may prove to be the first indication of much greater problems to come. As harmful viruses are widespread in the environment it is imperative that protection be provided through treatment of drinking water. Yet, as EPA stated at those hearings, we know very little about how to detect viruses let alone remove them from drinking water. One of the primary needs for research that would be authorized by this section would be investigations into the extent of viral contamination of drinking water and appropriate means of treatment.

EPA would be required to conduct a study of the contamination of ground water resources in the United States. The study is to include but shall not be limited to a survey of the nature of the extent of the causes of ground water contamination and the extent to which existing law is effective in controlling such contamination. The results of this

study are to be submitted to the Congress within one year after enactment of this act along with any legislative recommendations that EPA deems necessary. This is a study provision only and vests no regulatory authority in the Administrator of EPA at this time over ground water resources.

This section also authorizes EPA to finance training programs for careers in the management and safe operation of drinking water supply. The Community Water Supply Study, completed in 1970, revealed that many water supply systems are manned by improperly trained personnel. The authority granted by this section should help to properly train the operators of drinking water treatment plants.

This section contains a specific authorization for appropriations for the current fiscal year as well as the next two fiscal years. The amounts authorized shall not exceed $14,000,000 for fiscal year 1974, $23,000,000 for fiscal year 1975, and $31,000,000 for fiscal year 1976.

Section 9. Rural Water Survey

This section requires the Administrator, after consultation with the Secretary of Agriculture and the States, to conduct a survey of the quantity, quality and availability of rural drinking water supplies. The survey will include consideration of the number of rural residents being inadequately served by a public or private drinking water supply system, having inadequate or no access to drinking water, and who are exposed to increased health hazards because of the inadequacies or absence of a drinking water supply system.

The survey is to be completed within two years after the date of enactment of the proposed legislation and a final report submitted to the President for transmittal to the Congress within the six months after the completion of the survey. The report is to include recommendations for improving rural water supplies.

The rural water survey will be especially helpful to the Administrator in gathering information about the nature and extent of the extremely small water supplies for their possible inclusion within the definition of a public water supply system under section 3. Knowledge with respect to the nature and extent of rural water supply problems is deficient at this time. The information gathered by the survey will be invaluable in demonstrating these types of problems.

It is intended that the survey be as comprehensive as is reasonably possible. The Administrator should not be limited by the use of population statistics as might be used by other agencies to define the areas of study under this section. Nor should the survey exclude those sparsely populated areas isolated from rural population centers or those areas of varying population density located on the fringes of rural population centers. As the goal of the survey is not only to determine which systems might come under the umbrella of this legislation but to determine what additional authority might be necessary to solve rural water supply problems, the survey must define not only those rural areas or types of rural systems which are worrisome, but, also, the cost of solving those problems in a reasonable manner.

Section 10. Special Study and Demonstration Project Grants

This section authorizes the Administrator to make grants of not to exceed two-thirds of the cost of construction and 75 percent of other

costs of demonstrating the feasibility of new means of providing safe drinking water. This section of the proposed legislation should be particularly useful in demonstrating the benefits of the research that will be developed under section 8. Often it is not feasible for a municipality or private supplier of water to institute on an operational basis new research which is as yet untried even though the technology appears promising. This section will allow EPA to demonstrate whether or not new technology will serve a useful purpose.

It is intended that grants made under this section will be used solely to demonstrate new technology and should not be used to finance the construction and operation of any facility unless that facility will demonstrate new technology. In other words, the section is not intended to authorize construction grants for drinking water treatment facilities unless such facility meets the specified criteria.

A specific three-year authorization for appropriations is also included for this section in amounts not to exceed $2,000,000 for fiscal year 1974, $5,000,000 for fiscal year 1975, and $10,000,000 for fiscal year 1976.

Section 11. State Drinking Water Supply Program Grants

This section authorizes the Administrator to make grants to the States to assist them in establishing and maintaining adequate programs to asure the safety of public drinking water. The Administrator would determine each State's share on the basis of (1) population, (2) financial needs, and (3) the extent of the water supply problem within such State. Any such payment to a State is not to exceed two-thirds of the cost of any such State program. The basis for apportioning funds under this section is similar to the criteria contained in the existing Federal Water Pollution Control Act and the amendments to that Act now pending before the Congress. Moreover, among the amendments adopted by the committee was Amendment No. 31 to S. 433, introduced by Senator Stevens, which provides that each State (except Guam, American Samoa, and the Virgin Islands) shall receive no less than 1 percent of the annual appropriations for program grants. The Administrator, however, would be authorized to reduce the percentage if he determines it necessary applying the criteria specified above. As a check against the inappropriate allocation of funds, the proposed legislation would require that the Administrator make payments to the States in accordance with regulations developed by EPA. Thus, the States will have an opportunity for administrative and judicial review of the allocations.

One major conclusion of the EPA Community Water Supply Study and the GAO study is that the States are unable to allocate sufficient funds from their own sources to do a proper job of monitoring and regulating public water supply systems. For example, 79% of the systems checked under the EPA study had no sanitary survey by regulatory authorities in the year preceding the study, with only 64% having had a sanitary survey in the preceding three years. Another example is that only 483 people made up the water surveillance staffs of 38 States servicing 155 million people, an average of 13 public health personnel per State with an average funding of $160,000.

The Administrator shall approve a State plan if such plan contains the following elements:

(1) drinking water standards which are no less stringent than the national primary drinking water standards prescribed under this Act;

(2) appropriate regulations and procedures for the implementation and enforcement of the State standards;

(3) administration of the plan by the State agency charged with responsibility for drinking water;

(4) plans, policies, and procedures to be followed by the State in carrying out the plan;

(5) accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan;

(6) annual or more frequent reports as the Administrator may reasonably require in such form and containing such information as the Administrator may require;

(7) an emergency plan of action for each public water system within the State for use in times of emergency including provision for emergency reserves or alternate sources of suitable drinking water; and

(8) a standards violation notification procedure whereby the users of a public water system will be notified of the nature and extent of violations and any possible health effects which might arise and any remedial measures which will be taken to correct the problem.

The Administrator would be authorized to terminate payments under this section if he finds that a State plan is being unreasonably deviated from to any significant extent. If the State is making a good faith effort to comply with its plan but through circumstances which were not reasonably foreseeable, such State is unable to prevent significant deviations from the plan, then that State would still be eligible for program grants under this section. For example, if a natural disaster destroyed a State facility necessary to detect violations of the standards, a State should still be eligible for program grants under this section. Any approval or disapproval of a State plan or termination of payments because of unreasonable deviations will be in accordance with the procedures for administrative and judicial review under section 12.

This section further requires the Administrator to make a survey of State programs at least once every three years to determine if the States are unreasonably deviating from their plan to any significant extent.

The committee is aware that the revenue sharing proposals may provide some financial help to the States in administering drinking water programs. However, it should be recognized that these proposals will not provide the type of financial assistance that will be required to adequately improve State programs. For example, if the maximum allocation to the States of $3 billion per year as envisioned by renvenue sharing is realized at the end of five year,s the amount of funds utilized by the States from this source for drinking water programs will probably amount to less than $1 million per year assuming current spending patterns remain the same. Yet, the Environmental Protection

Agency has estimated that the States should be spending about $22 million more per year than they are spending currently. While revenue sharing funds will probably be used, at least in part, to defray the costs of the State share of water supply programs, revenue sharing, however meritorious it may be, by itself is an inadequate solution to the problems facing the States.

In addition, Federal financial assistance for State drinking water programs must be provided to avoid an entirely Federal drinking water program. As Federal enforcement ensues if the States fail to act or a State is not operating under an approved plan under this section, the States must be willing to assume the responsibility for regulating drinking water. The most effective way to ensure that end is to provide the States with the resources to operate their programs.

Section 12. Regulations, Procedures, and Judicial Review

This section specifies the mechanism by which regulations will be developed under the proposed legislation and the form of judicial review of those regulations.

The Administrator would be authorized to issue regulations to carry out the purposes of the Act and to amend or rescind them at any time. Proposed regulations must be published in the Federal Register at least sixty days prior to the time they become final. Any person adversely affected by a proposed regulation may file objections with the Administrator and request a public hearing. The Administrator would be required to grant such request. If public hearings are held, the issuance of final regulations would be held in abeyance pending the conclusion of the hearing. The Administrator would be authorized to structure the hearing in a manner he deems fit. Thus, he could afford full rights of cross examination if necessary to gather the facts, or he could limit the hearings to the presentation of oral or written statements.

Any judicial review of final regulations promulgated under the proposed legislation would be in accordance with the Administrative Procedures Act, except that with respect to relief pending review the court would be authorized to stay the agency action only if the party seeking such stay (a) is likely to prevail on the merits of the review proceeding and (b) will suffer irreparable harm pending such proceeding.

This section also contains a provision for remanding a case to the Administrator to adduce additional evidence if the evidence sought to be included is material and was not available at the time of the proceeding before the Administrator or that the failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator. In effect, this provision affords judicial review of the form of the agency hearing. If the evidence sought to be presented is material to the decision and the Administrator refused to include the evidence in an arbitrary or capricious manner, the court could order such additional evidence to be taken upon such terms and conditions as the court may deem proper.

Section 13. Records

This section requires each supplier of water subject to a standard under section 4 or anyone who receives financial assistance under this Act to establish and maintain such records and to make such reports

as the Administrator may reasonably require. Suppliers of water and others subject to State enforcement would be required to submit the reports and make the records available to the appropriate State agency for inclusion in the reports required of such State.

This section further authorizes officers and employees of the Environmental Protection Agency, upon presenting the appropriate credentials and a written notice of inspection authority, to enter establishments, facilities, or other property of suppliers of water or persons receiving grants under this Act for the purposes of inspecting records files, papers, processes, controls, and facilities to determine the adequacy of operations. Inspections would be required to be commenced and completed with reasonable promptness and the person whose facilities are inspected will be notified of the results of the inspection.

Of course, in each instance where a court ordered warrant is constitutionally required, the Administrator and his officers and employees would be expected to comply with those requirements. In other words, the inspection authority granted by this section will be used only in those cases where a warrant is not constitutionally required, and then only upon presentation of appropriate credentials and a written notice of inspection authority.

Section 14. State Regulations

This section provides that nothing in this Act shall affect the authority of any State or local government to establish drinking water standards or make other requirements for purposes similar to those in this Act, except that any such standards or requirements shall not be less stringent than those of this Act or regulations thereunder.

Section 15. Prohibited Act

This section specifies the various acts under the proposed legislation which are prohibited as follows:

(1) The failure to comply with any final regulation issued by the Administrator pursuant to this Act, except that noncompliance with a national secondary drinking water standard under section 4(b) of this Act is not prohibited;

(2) The failure or refusal to establish and maintain records, make reports, and provide information as required under section 13(a) of this Act;

(3) The refusal to allow entry and inspection of establishments, facilities, or other property pursuant to section 13(b) of this Act; or

(4) The failure of any person to comply with any order issued under section 5(d) of this Act.

Section 16. Penalties and Remedies

This section first specifies a criminal penalty of not more than $15,000 for each day of violation or imprisonment of not more than one year, or both, for willful violations of the Act.

Second, this section authorizes the Administrator to assess civil penalties of not more than $10,000 for each day of violation after an adjudicative hearing in accordance with section 554 of title 5, United States Code for nonwillful violations of the Act. Before assessing such penalties, the Administrator would be required to consider the

nature, circumstances, and extent of such violation, the practicability of such compliance, and any good faith efforts made by the violator to comply with such provisions. If the offending party fails to pay the civil penalty the Administrator would be authorized to commence an action in the district courts to obtain such relief as may be appropriate or he may request the Attorney General to do so.

Finally, this section authorizes the Administrator or the Attorney General to bring an action in an appropriate district court for equitable relief to redress violations of the Act.

Section 17. Citizen Civil Action

This section authorizes any person to bring a civil action for injunctive relief against violators of national primary drinking water standards and against the Administrator where he has failed to perform mandatory duties. Any such person would have standing to bring suit if he could maintain the constitutional requirement of a case or controversy. This section is similar to the citizen civil action provisions of the Clean Air Act, Federal Water Pollution Control Act, and the Noise Control Act of 1972.

Injunctive suits under this section would not be authorized prior to sixty days after the plaintiff gives notice of the violation to the Administrator, to the alleged violator, and to the State in which the violation occurs. Further, suits would be prohibited if the Administrator, the Attorney General, or the appropriate State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the national drinking water standard alleged to be violated. In any such action, any person could intervene as a matter of right. In an action to enjoin the Administrator to perform a mandatory duty, suits would be prohibited prior to sixty days after the Administrator has been given notice of such action. Notification to the Administrator will be given in such manner as he may require by regulation. In any action under this section, the Adminstrator or the Attorney General, if not a party, may also intervene as a matter of right.

As a deterrent against frivolous suits, the court would be authorized to award the costs of litigation to any party whenever the court determines such an award appropriate.

Finally, this section would not restrict any right which any person or class of persons may have under any statute or common law to seek enforcement of any national primary drinking water standard or to seek any other relief.

Section 18. Confidentiality

This section establishes as a general principle that "copies of any communications, documents, reports, or any other information received or sent by the Administrator or the results of any drinking water quality analyses or any other information pertaining to drinking water quality possessed by the Administrator shall be made available to the public upon identifiable request and at reasonable costs unless the information may not be released under the terms of subsection (b).

Whereas subsection (a) establishes as a general principle access to the public of information, there is no legal requirement to make

90-224 O - 82 - 52

information available if it is not required to be made available under the Freedom of Information Act (5 U.S.C. 552(b)). Subsection (a) must be read in conjunction with paragraph 2 of subsection (b) which states: "Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552 Title 5, U.S.C. or which is otherwise protected by law from disclosure to the public". Although nothing in the section "shall be deemed to require" release of any information, this section authorizes the Administrator or any officer or employee of the agency to make public any communications, documents, reports or other information which are not trade secrets.

Trade secrets may not be disclosed by the Administrator, employees of the Agency, or any member of the National Drinking Water Council except under certain specified situations. The purpose of this qualification is to protect the business community, particularly the bottled water community, from competitive harm. Black's law dictionary defines "trade secret" to mean: "a plan or process, tool, mechanism, or compound known only to its owner and those of his employees to whom it is necessary to confide it . . .; a secret, formula, or process not patented, but known only to certain individuals using it and compounding some article or trade having a commercial value. . . ." To give added protection to possessors of trade secrets, disclosure of trade secrets to the public when disclosure is necessary to protect their health could not be made without notice to the person to which the information appertains for comment in writing or discussion in closed session during a period of fifteen days following the notice. Of course, the 15 day period could be waived if the resulting delay would be detrimental to the public health.

There is a final qualification to the general principle of complete public access to information. This section prevents disclosure of the names or other means of identification of injured persons without their express written consent.

The protections granted by subsection (b) will rarely be used as little of the data received or sent by the Administrator will be a trade secret subject to protection. However, in the case of bottled water, information may be received or sent which could relate to processes or other matter which would fall within the definition of a trade secret. Thus, the language of this section is necessary to protect such trade secret information.

Subsection (c) of this section mandates that any communication from a person to the Administrator or any other employee of EPA or any member of the council established under section 7 concerning a matter presently under consideration in a rulemaking or adjudicatory proceeding shall be made a part of the public file of that proceeding unless it is entitled to protection as outlined above.

Section 19. Federal Facilities

This section requires each Federal installation to comply with all national primary drinking water standards and, to the maximum extent practicable, to comply with any national secondary, or esthetic, drinking water standards.

Subsection (b) of this section authorizes the administrator to waive compliance with the above requirements upon receiving information from the Secretary of Defense that the waiver is necessary in the

interests of national security. In the case of the Coast Guard, the Secretary of the Department in which the Coast Guard is operating would request the waiver. Upon issuance of the waiver, the Administrator would be required to publish a notice of the waiver in the Federal Register unless the Administrator has been requested not to publish the waiver because the publication would be contrary to the interests of national security. This provision is to cover those instances where, owing to national security requirements, installations or vessels of the Navy or the Coast Guard cannot comply with such requirements.

Section 20. Relationship to Other Laws

This section terminates the authority of the Secretary of Health, Education, and Welfare to regulate bottled drinking water under the Federal Food, Drug, and Cosmetic Act on the effective date of initial primary drinking water standards pertaining to bottled water under section 4 of this Act. The national primary drinking water standards will embody the regulation of bottled drinking water, and therefore the repeal of HEW's authority is necessary.

In bringing bottled water within the scope of this proposed legislation, the expertise and regulatory authority of the Environmental Protection Agency will be brought to bear on all public water supply systems. Consolidating jurisdiction, with EPA assuming the authority over bottled drinking water as well as other drinking water systems, should result in a better utilization of Federal resources. As section 4 requires EPA to develop standards with respect to bottled drinking water, the regulation of bottled drinking water and the enforcement of standards should be equivalent to that provided for other public water supply systems with special consideration for bottled water where necessary. This is in contrast to the current system of regulation of bottled drinking water by HEW which provides only a minimal spot-checking of bottled drinking water in the absence of any final standards for contaminants whatsoever.

Section 21. Authorization for Appropriations

This section authorizes funds to be appropriated in addition to the individual authorizations contained in sections 8, 9, 10 and 11 for the administration of the proposed legislation by EPA. Again, a three-year authorization is provided at a level not to exceed $8,000,000 for fiscal year 1974, $11,000,000 for fiscal year 1975, and $13,000,000 for fiscal year 1976.

Cost Estimate

Pursuant to the requirements of section 252 of the Legislative Reorganization Act of 1970, the committee estimates the cost of the proposed legislation for each of the first five fiscal years as follows:

	Fiscal year—				
	1974	1975	1976	1977	1978
Sec. 8. Research, technical assistance, and training grants	$14,000,000	$23,000,000	$31,000,000	$33,300,000	$37,300,000
Sec. 9. Rural water survey	1,000,000	2,000,000	1,000,000	0	0
Sec. 10. Special study and demonstration project grants	2,000,000	5,000,000	10,000,000	11,000,000	12,000,000
Sec. 11. State program grants	8,000,000	15,000,000	21,300,000	22,700,000	23,700,000
Sec. 21. All other EPA activities	8,000,000	11,000,000	13,000,000	14,000,000	15,000,000
Total	33,000,000	56,000,000	76,300,000	81,000,000	88,000,000

The committee knows of no cost estimate made by any Federal agency which differs from those tabulated above.

Changes in Existing Law

There is no change in existing law. Section 20, however, does repeal the authority of the Secretary of Health, Education and Welfare to regulate bottled water under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321, et seq.) on the effective date of national primary drinking water standards pertaining to bottled drinking water under section 4.

Text of S. 433 as Reported

(Omit the part struck through and insert the part printed in italics.)

A BILL To assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That this Act may be cited as the "Safe Drinking Water Act of 1973"~~.

Short Title and Table of Contents

Sec. 1 (a) This Act may be cited as the "Safe Drinking Water Act of 1973".

(b) Table of contents.

Sec. 1 Short title and table of contents.
Sec. 2 Findings.
Sec. 3 Definitions.
Sec. 4 National Drinking Water Standards.
Sec. 5 Enforcement of Standards.
Sec. 6 Imminent Hazards.
Sec. 7 National Drinking Water Council.
Sec. 8 Research, Technical Assistance, Information, Training of Personnel.
Sec. 9 Rural Water Survey.
Sec. 10 Special Study and Demonstration Projects.
Sec. 11 State Drinking Water Supply Programs.
Sec. 12 Regulations, Procedure, and Judicial Review.
Sec. 13 Records.
Sec. 14 State Regulations.
Sec. 15 Prohibited Acts.
Sec. 16 Penalties and Remedies.
Sec. 17 Citizen Civil Action.
Sec. 18 Confidentiality.
Sec. 19 Federal Facilities.
Sec. 20 Relationship to Other Laws.
Sec. 21 Authorization for Appropriations.

~~DECLARATION OF POLICY~~ *FINDINGS*

Sec. 2. (a) The Congress finds *that*—

(1) ~~that~~ increasing quantities and types of chemicals, bacteria, viruses, toxic metals, and other contaminants are entering the public water systems that serve as sources which supply ~~the Nation~~ *American people* with water for drinking many of which are either not detected or *are not* removed by established water testing and treatment methods and which are consumed by or come in contact with the public, thereby presenting hazards or potential hazards to the public health;

(2) ~~that~~ the public should be provided with adequate quantities of water that is safe for drinking and other human uses;

(3) ~~that~~ the sale and shipment *in interstate commerce* of *such* contaminants of drinking water or products made through the use or production of such contaminants ~~through interstate commerce~~ present a danger to the public from consuming water containing such contaminants;

(4) ~~that~~ the Federal Government has the responsibility of establishing minimum national drinking water standards for all public water systems and to encourage State and local governments to establish equivalent or more stringent standards; and

(5) ~~that~~ State and local governments ~~are in~~ need ~~of~~ Federal assistance ~~in assuring~~ *to assure* the quality of water required for drinking and other human uses, and to that end the Federal Government should supply technical assistance, research and development information, monitoring, and testing information, assistance for the planning and implementation of comprehensive State drinking water programs, assistance for the development and demonstration of new or improved methods of making water safe for drinking, and assistance for the training of individuals involved in the management and safe operation of ~~our~~ *the* Nation's public water supply systems.

DEFINITIONS

SEC. 3. As used in this Act—

(1) ~~The term~~ "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ~~The term~~ "Agency" means the Environmental Protection Agency.

~~(10)~~ *(3)* ~~The term~~ "Bottled drinking water" means water for human consumption *which is* sold in a closed container.

~~(9)~~ *(4)* ~~The term~~ "Contaminant" means any physical, chemical, biological, radiological, or other substance or matter which may cause or transmit infectious disease, chemical poisoning, chronic disease, or other impairment to ~~man,~~ *human beings* or which may have any other deleterious effect on the public health.

~~(8)~~ *(5)* ~~The term~~ "Council" means the National Drinking Water Council, established under section 7 of this Act,

~~(1)~~ *(6)* ~~The term~~ "Municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law and having jurisdiction over the supply of water to the public' and an Indian tribe or an authorized Indian tribal organization.

~~(5)~~ *(7)* ~~The term~~ "Person" includes a State or political subdivision thereof, municipality, corporation, partnership, association, private or public nonprofit institution, or an individual.

~~(6)~~ *(8)* ~~The term~~ "Public water system" means—

(A) any system which provides drinking water, including bottled drinking water, ~~(i)~~ to ten or more premises not owned or controlled by the supplier of water or ~~(ii)~~ to forty or more individuals receiving such drinking water from a system not serving travelers in interstate commerce;

(B) any system which provides drinking water to carriers serving travelers in interstate commerce;

(C) any system which provides drinking water to facilities or establishments serving travelers in interstate commerce, except that the Administrator may by regulation exempt any such system or class of such systems if he determines that such exemption will not result in any unreasonable threat to public health; and

(D) any other system or class of systems which provides drinking water if the Administrator determines by regulation that such system or class of systems may pose an unreasonable threat to public health.

~~(3)~~ *(9)* ~~The term~~ "State" means *any* State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

~~(7)~~ *(10)* ~~The term~~ "Supplier of water" means any person who controls, owns, or operates a public water system.

NATIONAL DRINKING WATER STANDARDS

SEC. 4. (a) The Administrator shall, after consultation with the Secretary of Health, Education, and Welfare, ~~(A)~~ *(1)* issue initial proposed regulations prescribing national primary drinking water standards within one hundred and eighty days after the date of enactment of this Act and ~~(B)~~ *(2)* issue initial proposed regulations prescribing national secondary drinking water standards within one hundred and eighty days after the date of such enactment. The Administrator shall specify in such proposed regulations the date on which such regulations shall take effect, which shall be as soon as is practicable.

(b)(1) National primary drinking water standards ~~as described under subsection (a) of this section,~~ shall be drinking water standards and programs, the attainment and maintenance of which, are requisite to reasonably protect the public health, except that the Administration shall not prescribe the addition of any substance other than for the purpose of treating contaminants. Such standards—

(A) shall prescribe the maximum permissible levels for any contaminants which may exist in any public water system in the United States which may cause or transmit disease, chemical poisoning, or other impairments to man, allowing adequate margins of safety;

(B) may apply to any feature of the water supply system including, but not limited to, the treatment, storage, and distribution facilities;

(C) shall include requirements for the adequate operation, maintenance, surveillance, and monitoring of water quality adequate to assure a dependable supply of drinking water which meets the requirements of subparagraph (A); and

(D) shall include requirements for construction and site selection of public water system facilities to protect such facilities from floods and other natural disasters.

(2) National secondary driking water ~~standards, as described under subsection (a) of this section,~~ *standards* shall specify the level of quality of drinking water the attainment and maintenance of which is requisite to reasonably assure aesthetically adequate drinking water. Such standards may apply to any constituent of drinking water ~~(A)~~

which may affect the taste, odor, or appearance of such water or ~~(B)~~ which may otherwise be necessary to assure aesthetically adequate drinking water.

(3) In establishing or revising standards under this section, the Administrator shall ~~take into consideration~~ *consider* the views and recommendations of the Council established pursuant to section 7 of this Act.

(c) The Administrator shall publish simultaneously with the issuance of any proposed national primary or national secondary drinking water standard under this section—

(1) such criteria and information as, in his judgment, are necessary to accurately reflect the nature and extent of all identifiable effects on public health or welfare which may be expected from the presence of the contaminant which is the object of such proposed drinking water standards*; and*

(2) information and data on drinking water treatment methods and technology for the control of the contaminant which is the object of such proposed drinking water standard. Such information and data shall apply to each feature of the water supply system at which control of the contaminant may be exercised including, but not limited to, treatment, storage, and distribution facilities and the adequate construction, maintenance, and operation thereof. Such information and data shall include the costs of such treatment and ~~the~~ *its* effectiveness ~~of such treatment~~ in controlling such contaminant.

(d) The Administrator shall, at least *once* every three years, review the adequacy of any national primary or secondary drinking water standard *prescribed* under ~~subsection (a) of~~ this section and the criteria, information, and data published under ~~subsection (c) of~~ this section. The Administrator shall publish his finding in the Federal Register.

ENFORCEMENT OF STANDARDS

SEC. 5. (a) For the purposes of this Act, a State ~~will be considered to have~~ *has* primary enforcement responsibility during any period for which the Administrator has approved a plan in accordance with section 11(d) of this Act and such plan is not being unreasonably deviated from to any significant extent by such State. If any such State has primary enforcement responsibility, the Administrator shall monitor the activities of such State only to the extent necessary to determine if such plan is being unreasonably deviated from to any significant extent. To the maximum extent practicable, any such monitoring shall not duplicate the activities of such State.

(b)(1) Whenever, on the basis of information available to him, the Administrator finds during a period in which a State has primary enforcement responsibility under subsection (a) of this section that any public water system in such State does not comply with any national primary drinking water standard he shall notify ~~the~~ *such* State ~~in which such water system is operating~~ of ~~the~~ *such* noncompliance. If the Administrator finds that such failure to comply with such standard extends beyond the thirtieth day after such notification he shall give public notice of such failure to comply with such standard and the extent of the dangers posed *by such noncompliance* and shall, if appropriate

remedial action has not been taken to prevent any unreasonable endangerment to public health, ~~(i)~~ (*A*) commence an action under section 16 of this Act, or request the Attorney General to do so, or ~~(ii)~~ (*B*) issue an order in accordance with subsection (d) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds during a period in which a State does not have primary enforcement responsibility under subsection (a) of this section, that ~~a~~ *any* public water system in such State does not comply with any national primary drinking water standard he shall give public notice of such finding and the extent of the dangers posed, and shall, if appropriate remedial action will not be taken to prevent any unreasonable endangerment to public health, ~~(i)~~ (*A*) commence an action under section 16 of this Act, or request the Attorney General to do so, or ~~(ii)~~ (*B*) issue an order in accordance with subsection (d) of this section.

(c) Whenever, on the basis of information available to him, the Administrator finds that any public water system in a State does not comply with any national secondary drinking water standards, he shall notify such State and request such State to take appropriate remedial action. If, after a reasonable time following such notification, the Administrator finds that such State has not taken remedial action, he shall give public notification of such finding in a manner suitable to inform users of such public water system of such violation.

(d)(1) Any order issued under subsection (b) of this section shall specify such relief as may be appropriate to prevent any unreasonable endangerment to public health. Such relief may ~~include an order requiring~~ *require* the person responsible for the violation which results in ~~the~~ *such* order to cease such violation, to notify customers of such violation in accordance with section 11(d)(8) of this Act, or to furnish emergency supplies of drinking water.

(2) Any order *issued* under ~~this subsection~~ *subsection (b) of this section* shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code.

IMMINENT HAZARDS

SEC. 6. (a) An imminent hazard shall be considered to exist when there is reason to believe that a constituent of the drinking water of a public water system will result in a serious risk to health prior to the conclusion of an administrative hearing or other formal proceeding held pursuant to this Act and that a State or local authority or the supplier of water has not acted to eliminate such risk.

(b) If an imminent hazard exists, the Administrator may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to order such action as is necessary to eliminate the imminent hazard. The Administrator shall simultaneously, if he has not previously done so, propose any regulation which might be necessary under section 4 of this Act, or he may commence an action under section 16 of this Act.

NATIONAL DRINKING WATER COUNCIL

SEC. 7. (a) There shall be established in the Environmental Protection Agency a National Drinking Water Council consisting of

fifteen scientifically qualified members. The Administrator shall appoint members of the ~~board~~ *Council* from a list of individuals recommended to him by the National Academy of Sciences or from such other sources as he deems advisable. Such Council shall include qualified scientists none of which shall have any economic interest in the supply of drinking water and not more than one-third of which shall have any responsibility for the regulation of drinking water. Each member of such Council shall hold office for a term of three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term;

(2) the terms of the members first taking office shall expire as follows—(i) five shall expire three years after the date of enactment of this Act, (ii) five shall expire two years after such date, and (iii) five shall expire one year after such date, as designated by the Administrator at the time of appointment; and

(3) the members of such Council shall be eligible for reappointment.

(b) The National Academy of Sciences shall maintain a list of qualified scientists to assist the Administrator in appointing members to such Council.

(c) Such Council shall advise, consult with, and make recommendations to the Administrator on matters relating to the scientific review of data, including engineering data, relating to the activities of the Agency under this Act. Such Council shall, upon the request of the Administrator, review any proposed action of the Administrator and shall report its views and reasons therefor in writing to the Administrator within a reasonable time, as specified by the Administrator. ~~All proceedings and deliberations of such Council and their reports and reasons therefor shall be public record.~~ The report of the Council and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

~~(c)~~ (*d*) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

~~(d)~~ (*e*) *While serving on the business of the Council*, members ~~of such Council~~ who are not regular full-time employees of the United States shall, ~~while serving on business of the Council,~~ be entitled to compensation at rates fixed by the Administrator, ~~but~~ not ~~exceeding~~ *to exceed* the daily rate applicable at the time of such service to grade GS-~~18~~ of the Classified Civil Service, including traveltime~~;~~ ~~and.~~ While ~~so~~ serving away from their homes or regular places of ~~business,~~ *business, members* ~~they~~ may be allowed travel expenses, including per diem in lieu of subsistence as authorized ~~by~~ *under* section 5701 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 8. (a) The Administrator shall conduct and promote the coordination of research, studies, and investigations and render finan-

cial, technical, and other assistance to appropriate public agencies, institutions, water supply utilities, and individuals in the conduct of research, studies, and investigations relating to the causes, diagnosis, treatment, control, and prevention of diseases and impairments of ~~man~~ *human beings* resulting directly or indirectly from contaminants in drinking water, or to the provision of an adequate quality and quantity of safe drinking water. Such research, studies, or investigations may include, but shall not be limited to, the development of *new and improved methods*—

(1) ~~new and improved methods~~ to identify and measure the existence of contaminants in drinking water and to identify the source of such contaminants;

(2) ~~new and improved methods~~ to identify and measure the health effects of contaminants in drinking water;

(3) ~~new and improved methods~~ of treating water to prepare it for drinking, to improve the efficiency of water treatment and to remove contaminants from the water; and

(4) ~~new and improved methods~~ for providing *the public with* adequate quantities of safe water for drinking, ~~to the public,~~ including improvements in water purification and distribution, and methods of assessing the health-related hazards of other characteristics of drinking water supplies.

(b) In carrying out this Act, the Administrator is authorized to—

(1) collect and make available information pertaining to research and investigations, with respect to providing adequate quality and quantity of safe drinking water together with appropriate recommendations in connection therewith;

(2) make available research facilities of the Agency to appropriate public agencies, institutions, water supply utilities, and individuals engaged in studies and research relating to water supply; and

(3) make grants to, and contracts with, any State or other public agency, educational institution, water supply utility, any other organization, and individuals in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed *to*—

(A) ~~to~~ develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the management and safe operation aspects of providing safe drinking water; and

(B) ~~to~~ train instructors and supervisory personnel to train or supervise persons in occupations involving the management and safe operation aspects of providing safe drinking water.

(c)(1) The Administrator shall conduct a study of the contamination of ground water resources in the United States which are utilized for the provision of drinking water. Such study shall include, but shall not be limited to, a survey of the nature, extent, and causes of such contamination and the extent to which existing State and Federal law controls such contamination.

(2) Not later than one year after the enactment of this Act, the Administrator shall submit the results of such study to the Congress

along with such legislative recommendations as he may deem appropriate.

~~(c)~~ *(d) To carry out the provisions of this section,* there is hereby authorized to be appropriated ~~to carry out the provisions of this section~~ *not to exceed* $14,000,000 for the fiscal year ending June 30, 1974; *not to exceed* $23,000,000 for the fiscal year ending June 30, 1975; and *not to exceed* $31,000,000 for the fiscal year ending June 30, 1976. Sums appropriated pursuant to this section shall remain available for obligation through the close of the following fiscal year.

RURAL WATER SURVEY

SEC. 9. (a) The Administrator shall (after consultation with the Secretary of Agriculture and the several States) enter into *such* arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability ~~or~~ *of* rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having inadequate access to or no access to drinking water; and

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard.

(b) Such survey shall be completed within two years of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) *To carry out the provisions of this section,* there is hereby authorized to be appropriated ~~to carry out the provisions of this section~~ *not to exceed* $1,000,000 for the fiscal year ending June 30, 1974; *not to exceed* $2,000,000 for the fiscal year ending June 30, 1975; and *not to exceed* $1,000,000 for the fiscal year ending June 30, 1976.

SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS

SEC. 10. (a) The Administrator is authorized to make grants to appropriate public and private agencies, institutions, water supply utilities, and individuals for the purposes of *assisting in the development and demonstration of any project which will—*

(1) ~~assisting in the development and demonstration of any project which will~~ demonstrate a new or improved method, approach, or technology for providing a safe supply of drinking water to the public in both urban and rural areas of the Nation; and

(2) ~~assisting in the development and demonstration of any project which will~~ investigate and demonstrate the health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and related uses or which will demonstrate processes and methods for the safe and ~~esthetic~~ *aesthetic* preparation of such waters.

(b) Grants made by the Administrator under this section shall not—

(1) exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator;

(2) be made for any project involving the construction or modification of any facility in any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water; and

(3) be made for any project unless the Administrator determines, after consulting the Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking or other useful purposes.

(c) Nothing in this section shall affect the authority of the Administrator to make grants for Alaska village safe water and pollution elimination or control demonstration projects under section 113 of the Federal Water Pollution Control Act ~~(86 Stat. 832)~~ *(33 U.S.C. 466)*.

(d) ~~For the purposes of this section~~ *To carry out the provisions of this section*, there is hereby authorized to be appropriated *not to exceed* $2,000,000 for the fiscal year ending June 30, 1974; *not to exceed* $5,000,000 for the fiscal year ending June 30, 1975; and *not to exceed* $10,000,000 for the fiscal year ending June 30, 1976.

STATE DRINKING WATER SUPPLY PROGRAMS ~~GRANTS~~

SEC. 11. (a) There is hereby authorized to be appropriated *not to exceed* $8,000,000 for the fiscal year ending June 30, 1974; *not to exceed* $15,000,000 for the fiscal year ending June 30, 1975; and *not to exceed* $21,300,000 for the fiscal year ending June 30, 1976, for grants to the States to assist them in establishing and maintaining adequate programs to assure the safety of public drinking water.

(b) From the sums available ~~pursuant to~~ *for any fiscal year under* subsection (a) ~~for any fiscal year~~ *of this section* the Administrator shall from time to time make payments to the several States in accordance with regulations. *Such payments shall be made* on the basis of (1) the population, (2) the financial needs, and (3) the extent of the actual or potential water supply problem, except that any such payment shall not be greater than an amount equal to two-thirds of the cost of any such State program. *No State shall receive less than 1 per centum of the annual appropriation for grants under this section: Provided, That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified under this subsection: And provided further, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.*

(c) The Administrator shall pay to each State an amount equal to its allotment under subsection (b) for the purposes of defraying the cost of carrying out its State plan approved under subsection (d) of this section, including the cost of training personnel for State and local public water supply work and the cost of administering the State plan.

Such payments shall not be made if such plan has not been approved by the Administrator.

(d) The Administrator shall approve any plan *which is submitted by a State* for establishing and maintaining a program to assure the safety of public drinking water ~~which is submitted by the State,~~ if such plan—

(1) provides for the formal adoption by the State of drinking water standards which are no less stringent than the national primary drinking water standards prescribed under section 4 of this Act;

(2) provides for the adoption by the State of appropriate regulations and procedures for the implementation and enforcement of such State standards;

(3) provides for administration or for the supervision of administration of the plan by the State agency charged with the responsibility for the safety of drinking water;

(4) sets forth the plans, policies, and procedures to be followed in carrying out the State plan;

(5) provides for such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan;

(6) provides that the appropriate State agency will make annual reports, or such more frequent reports as the Administrator may reasonably require, in such form and containing such information as he may require;

(7) provides for the establishment of an emergency plan of action for each public water system within the State for use in case of an emergency affecting the safety of the treated drinking water or the effective operation of the treatment facility, including provision for emergency reserves or alternate sources of water suitable for drinking and culinary purposes; and

(8) provides for the implementation of a standards violation notification procedure, ~~whereby~~ *under which* any supplier of water found to be in violation of any Federal or State drinking water standard will be required to so notify its customers, in transmitting water bills or through other appropriate means, of the nature and extent and possible health effects of such violation and the remedial measures which will be taken to correct the problem.

(e) If a State plan has been approved, and the Administrator subsequently finds that such plan is being unreasonably deviated from to any significant extent, the Administrator is authorized to terminate any further payments *to* such *State* under this section. ~~to such State.~~

(f) Any approval or disapproval of a State plan under subsection (d) of this section, or termination of payments under subsection (e) of this section, shall be in accordance with and subject to the procedures and judicial review provisions of section 12 of this Act.

(g) For the purposes of determining whether any State plan approved under subsection (d) of this section is being unreasonably deviated from to any significant extent, the Administrator shall cause

to be made, at least once every three years, a complete audit of such State's water supply programs.

REGULATIONS, PROCEDURE, AND JUDICIAL REVIEW

SEC. 12. (a) *(1)* At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act. ~~and to~~ *He may* amend or rescind such regulations at any time.

~~(b)~~ *(2)* The Administrator shall publish any regulations proposed under this Act, or proposals to amend or rescind such regulations, and his justification therefor in the Federal Register at least sixty days prior to the time when such regulations shall become final. The Administrator shall also publish in the Federal Register a notice of all petitions received under ~~subsection (a)~~ *paragraph (1) of this subsection*, and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data, views, or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

~~(c)~~ *(3)* Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and the relationship of such findings to the regulations issued.

~~(c)~~ *(b)* Except as expressly modified by the provisions of this section, the provisions of chapter 5, of title 5 of the United States Code, shall apply to proceedings conducted by the Administrator under this Act.

~~(d)~~ *(c)(1)* Any judicial review of final regulations promulgated under this Act shall be in accordance with section 701–706 of title 5, United States Code, except that, with respect to relief pending review, no stay of an Agency action may be granted unless the reviewing court determines that the party seeking such stay ~~(a)~~ is likely to prevail on the merits in the review proceeding and ~~(b)~~ will suffer irreparable harm pending such proceeding.

~~(f)~~ *(2)* If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either ~~(1)~~ that the information is material and was not available at the time of the proceeding before the Administrator or ~~(2)~~ that failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as ~~to~~ the court may deem proper. The Administrator may modify his finding as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or

new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

RECORDS

SEC. 13. (a) ~~Every~~ *Each* supplier of water who is subject to a standard prescribed under section 4 *of this Act* or *each* grantee shall establish and maintain such records, make such reports, and provide such information as the Administrator shall reasonably require to assist him in establishing standards and regulations under this Act and in determining whether such person has acted or is acting in compliance with this Act. Suppliers of water and other *persons* subject to State enforcement under section ~~4(c)~~ *5* of this Act shall submit such reports and make available such records and information to the appropriate State agency for inclusion in State reports required under section 11(d)(6) of this Act.

(b) Any officer or employee duly designated by the Administrator, upon presenting appropriate credentials and a written notice of inspection authority to any supplier of water subject to a standard prescribed under section 4 of this Act or any grantee (or person in charge of any of its property), is authorized to enter any establishment, ~~or~~ facility, or other property of such ~~person~~ *supplier of water or grantee* in order to determine whether such *person* ~~supplier or grantee~~ has acted or is acting in compliance with this Act. ~~including for this purpose, inspection~~ *Such officer or employee may inspect*, at reasonable times, ~~of~~ records, files, papers, processes, controls, and facilities, ~~or in order to~~ *and may* test any feature of a public water system, including its raw water source. Each inspection shall be commenced and completed with reasonable promptness and ~~the~~ *such* supplier *of water* or grantee notified of the results of such inspection.

(c) For purposes of this section, the term "grantee" means any person who receives financial assistance under this Act.

STATE REGULATIONS

SEC. 14. Nothing in this Act shall affect the authority of any State or local government to establish drinking water standards or to make other requirements for purposes similar to those contained in this Act, except that any such standards or requirements shall not be less stringent than the requirements of this Act or regulations ~~thereunder~~ *issued under this Act.*

PROHIBITED ACTS

SEC. 15. The following acts and the causing thereof are prohibited:

(1) the failure to comply with any final regulation issued by the Administrator ~~pursuant to~~ *under* this Act, except that noncompliance with a national secondary drinking water standard under section 4(b) of this Act is not prohibited;

(2) the failure or refusal to establish and maintain records, make reports, and provide information as required under section 13(a) of this Act;

(3) the refusal to allow entry and inspection of establishments, facilities, or other property pursuant to section 13(b) of this Act; or

(4) the failure of any person to comply with any order issued under section ~~5(d)~~ (*b*) of this Act.

PENALTIES AND REMEDIES

SEC. 16. (a) Any person willfully violating section 15 of this Act shall on conviction be fined not more than $15,000 for each day of violation or imprisoned for not more than one year, or both.

(b) (1) Any person ~~not willfully~~ violating section 15 of this Act *other than willfully* shall be liable to the United States for a civil penalty of a sum which is not more than $10,000 for each day of violation, to be assessed by the Administrator after notice and opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after ~~he~~ *the Administrator* has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

(2) ~~Upon failure of~~ *If* the offending party *fails* to pay ~~the~~ *such* civil penalty, the Administrator may commence an action in an appropriate district court of the United States for such relief as may be appropriate or *may* request the Attorney General to commence such an action.

(c) The Attorney General or the Administrator may bring an action in the appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of section 15 of this Act. ~~and~~ The district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

CITIZEN CIVIL ACTION

SEC. 17. (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any national primary drinking water standard promulgated under section 4 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to any alleged violator of such standard and (iii) to the State in which the violation occurs,

(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil

action in a court of the United States to require compliance with such standard, but in any such action any person may intervene as a matter of right.

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any national primary drinking water standard or to seek any other relief.

CONFIDENTIALITY

SEC. 18. (a) Copies of (1) any communications, documents, reports, or other information received or sent by the Administrator or (2) the results of any drinking water quality analyses or other information pertaining to drinking water quality possessed by the Administrator shall be made available to the public upon identifiable request, and at reasonable cost unless such information may not be publicly released under the terms of subsection (b) of this section.

(b)(1) The Administrator or any officer or employee of the Agency or the Council established under section 7 of this Act shall not disclose any information which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed by the Administrator—

(A) to other Federal Government departments, agencies, and officials for official use, upon request, and with reasonable need for such information;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

(D) if relevant in any proceeding under this Act, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

(E) to the public in order to protect their health, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the person to which the information appertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health).

In no event shall the names or other means of identification of injured persons be made public without their express written consent.

(2) Nothing contained in this section shall be demed to require the release of any information described by subsection (b) of section 552,

90-224 O - 82 - 53

title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter presently under consideration in a rulemaking or adjudicative proceeding in the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is communication entitled to protection under subsection (b) of this section.

FEDERAL FACILITIES

SEC. 19. (a) Except as provided for in subsection (b) of this section, each Federal department or agency having jurisdiction over any building, installation, or other property, which is or will be served by a federally owned or maintained public water system, shall comply with all national primary drinking water standards prescribed under section 4 of this Act and shall, to the maximum extent practicable comply with any national secondary drinking water standard prescribed under such section.

(b) The Administrator may waive compliance with the requirements of subsection (a) of this section, in whole or in part, upon receiving information from the Secretary of Defense or from the Secretary of the Department in which the United States Coast Guard is operating that such waiver is in the interest of national security. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for good cause shown by the Secretary of Defense or by the Secretary of the Department in which the United States Coast Guard is operating, in the interest of national security, unless the Administrator has been requested by the applicable Secretary to omit such publication because it would be contrary to the interests of national security.

RELATIONSHIP TO OTHER LAWS

SEC. 20. The authority of the Secretary of Health, Education, and Welfare to regulate bottled drinking water under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, et seq.) shall be repealed on the effective date of initial national primary drinking water standards pertaining to bottled drinking water under section 4 of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 21. In addition to the authorizations for appropriations contained in sections 8, 9, 10, and 11 of this Act, there are hereby authorized to be appropriated such sums as may be necessary, but not to exceed $8,000,000, $11,000,000, and $13,000,000, for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of ~~the~~ *this* Act.

AGENCY COMMENTS

The following agency comments were received by the committee on S. 433 and S. 1735.

35

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., February 27, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am pleased to transmit a proposed bill, "The Safe Drinking Water Act of 1973," which is designed "to assure that the public is provided with safe drinking water, and for other purposes."

The proposed bill is forwarded in accordance with the Environmental and National Resources State of the Union Message of the President.

The Safe Drinking Water Act of 1973 would provide an effective solution to the problem associated with providing safe drinking water for the public. The legislation would insure that adequate standards are developed, require that citizens receive prompt notification if their drinking water fails to meet health standards, and provide that primary enforcement, reporting, and monitoring authorities will rest with State and local governments where they properly belong. The proposal is essentially a preventive measure intended to assure safe drinking water now and for the future.

Under the proposed bill, the Administrator of the Environmental Protection Agency would establish national mandatory drinking water standards, designed to protect the public health. Recommendatory standards relating to non-health characteristics of drinking water would also be issued. States would have responsibility for implementing and assuring compliance with the mandatory national standards. In the event of non-compliance, the supplier of water would be obliged to notify users, the State, and EPA. We believe that the public awareness to be achieved through the notification requirement will best assure continuing safe drinking water to the Nation. Additional assurance of compliance would be achieved through a citizen suit provision. Direct Federal enforcement would be available in the event of an imminent health hazard. Research and studies addressed to drinking water supply problems would also be provided.

We recommend that the bill be referred to the appropriate Committee for consideration and that it be enacted.

The Office of Management and Budget has advised that the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

WILLIAM D. RUCKELSHAUS,
Administrator.

Enclosure.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., June 6, 1973.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the comments of the Environmental Protection Agency on S. 433, the "Safe Drinking Water Act of 1973."

The bill requires the Administrator of EPA to promulgate national primary and secondary drinking water standards. Primary standards are to be health-based and shall include not only constituent levels for contaminants, but also operation, maintenance, surveillance, and monitoring requirements. Furthermore, standards for construction and site selection to protect facilities from floods and other natural disasters are mandated. The Administrator has an option of establishing standards, among other things, for treatment, storage, and distribution facilities. Secondary standards are to be based on aesthetic considerations such as taste, odor, and appearance. Responsibility for enforcing primary standards is largely the responsibility of the States, but procedural mechanisms are available to the Administrator that allow him to act if the States fail to do so. In case of secondary standards, the Administrator shall notify a State when he learns that a supplier is not in compliance. If the State fails to take remedial action within a reasonable time, the Administrator shall publicly notify users of the system of the violation.

In addition to the standard-setting and enforcement capabilities conferred upon him, the Administrator is empowered to conduct research, assist others in their research efforts, provide technical assistance, conduct training programs, and initiate a demonstration grant program. The bill also authorizes State program grants for States whose plans are approved by the Administrator.

The bill also provides for the establishment of a National Drinking Water Advisory Council to advise the Administrator. Additional provisions provide for citizen suits and the regulation of bottled drinking water.

The Environmental Protection Agency is in accord with the objectives of this legislation. However, we believe that the Administration's bill (S. 1735), possesses certain features that make its enactment preferable to that of S. 433.

The most important point in favor of the Administration's bill is its recognition of the importance of State and local efforts in providing the Nation with safe drinking water. In recognition of this fact, S. 1735 provides for a distinct division of labor between Federal, State, and local authorities, with the Federal role circumscribed to those activities for which it is best suited; standard setting and requiring adequate monitoring of the quality of the Nation's drinking water at its point of use.

This division of labor has several implications for the Administration's bill. First, the scope of the primary health-related standards is limited in S. 1735 to constituent limits, and monitoring and reporting requirements. The operation and maintenance requirements found in S. 433 are, we believe, better left to State and local determination. Variances in the character of treatment systems around the country—from the cold northern to the warm southern climates—make a Federal standard for operation and maintenance clearly inappropriate. We feel focusing Federal attention at the point of use serves to take full advantage of Federal standard setting capabilities without displacing State and local responsibility.

A second implication of recognizing the importance of State and local efforts is in enforcement. The broad scope of the primary standards under S. 433 coupled with the backup Federal enforcement mechanism of section 5 holds out the possibility of far-flung and intensive Federal enforcement actions. In contrast, S. 1735 embodies a self-executing enforcement mechanism that precludes the need for an extensive Federal presence in the enforcement area. Under the Administration's bill violation of a primary standard calls into play an automatic notification procedure that in conjunction with citizen suits and State enforcement efforts allows for a low Federal profile.

We also believe that the Federal role with regard to secondary (aesthetic) standards should be even more limited. Since these standards will vary greatly from place to place, we feel they should be completely under State and local control. Furthermore, the fact that they are based on aesthetics would seem to make it a local decision as to whether the costs of their adoption are in line with what the State or locality desires to pay for aesthetic benefits. We therefore believe that S. 1735, by providing only for the issuance of recommended secondary standards for adoption by State and local agencies, lays out the appropriate Federal role.

Our concern for State and local initiative also leads us to argue against the enactment of the State program grant provisions of S. 433. Such grants would have several undesirable side effects. State and local initiative would be weakened since EPA would be funding programs and setting priorities in an area of traditional State and local responsibility. Furthermore, both the Congress and the Administration have been concerned with the proliferation of categorical aid programs and these grants would only exacerbate this problem. It is our belief that the costs of treatment, testing and monitoring should be borne by the users of the water supply. Experience has shown that an adequate safe drinking water program can be funded from State and local sources.

We also recommend against establishing a statutory National Drinking Water Advisory Council to assist the Administrator on matters arising under this legislation. The Administrator will (and as a matter of fact has sought such advice in the past) need to seek advice from outside experts, but we do not believe it is necessary to establish another statutory advisory committee.

The inclusion of bottled water within S. 433's regulatory scheme is another provision we do not recommend be enacted. The Food and Drug Administration has an ongoing program in this area and adequate legal authority to insure the safety of bottled water. We can see no reason for duplicating FDA's efforts.

Accordingly, we recommend enactment of S. 1735, the Administration's Safe Drinking Water Act of 1973 in lieu of S. 433.

We are advised by the Office of Management and Budget that the submission of this report is in accord with the program of the President.

Sincerely yours,

ROBERT W. FRI,
Acting Administrator.

38

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 17, 1973.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter of March 1, 1973, you requested our comments on S. 433, 93d Congress, a bill which if enacted would be cited as the "Safe Drinking Water Act of 1973."

S. 433 would authorize the Administrator of the Environmental Protection Agency (EPA) to issue standards for drinking water to assure that the public is provided with an adequate and wholesome supply of water for drinking and other human uses.

Sections 8(b)(3) and 10(a) would authorize the Administrator of the Environmental Protection Agency to make grants to public and private agencies, institutions, water supply utilities, and individuals. However, there is no provision in the bill authorizing the Comptroller General, or his representative, to have access for the purpose of audit to the records of the recipients of the Federal grants proposed in the bill. Such authority is provided to the Comptroller General with respect to grants-in-aid to States pursuant to section 202 of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1101). We recommend that similar authority be provided with respect to recipients of Federal funds below the State level as well as other recipients under the proposed legislation. This could be accomplished by adding two new subsections to section 13 of the bill as follows:

(d) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(e) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (d) of this section, have access for the purpose of audit and examination to any books, documents, papers and records of such recipients which in the opinion of the Administrator or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, loans, or other arrangements referred to in subsection (d).

On page 24, line 20, "section 4(c)" should be changed to "section 5." On page 26, line 13, "section 5(d)" should be changed to "section 5(b)."

Sincerely yours,

PAUL G. DEMBLING,
For the Comptroller General
of the United States.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., June 1, 1973.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to S. 433, a bill "To assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes."

It is noted that the Administration's proposal, covering the same subject matter as S. 433, has been introduced as S. 1735. Accordingly, the Department of Defense recommends the enactment of S. 1735 in lieu of S. 433.

However, if notwithstanding the above, favorable consideration is given to S. 433, the Department of Defense strongly supports the retention of the waiver provision included as section 19(b) of the bill.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

L. NIEDERLEHNER,
Acting General Counsel.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., June 4, 1973.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our best estimate of each State's share of the drinking water supply program grants that would be authorized under S. 433. The grants would be distributed to the States in accordance with regulations on the basis of (1) population, (2) financial need, and (3) the extent of the actual or potential water supply problem existing in the State.

Attached is a table which indicates the estimate of the share for each State under each of the criteria set out in the bill and how each estimate was determined. We have not determined how the several criteria set out in the bill should be weighted or if in fact each should be given equal weight in arriving at each State's share. We assume this could be provided for in the regulations authorized under the program grants section.

These estimates of each State's share is provided on an informational basis in response to your request and of course do not represent an endorsement of the State program grants concept in S. 433. As we stated in our testimony on this legislation on May 31, we recommend against enactment of the State program grant provisions. We believe that an adequate safe drinking water program can and should be funded from State and local sources.

We are advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely yours,

ROBERT G. RYAN,
Acting Director,
Office of Legislation.

Attachment.

DISTRIBUTION OF STATE PROGRAM GRANT FUNDS

S. 433, the Safe Drinking Water Act of 1973, would provide water supply program grants to assist the States in the conduct of effective water supply programs. The Act indicates that the funds are to be distributed on the basis of: (1) the population; (2) the extent of the actual or potential water supply problem; and (3) the financial need.

The attached table contains a distribution of grant funds, based upon the three stated criteria. The figures were derived as follows:

(1) Population—Basic population data was obtained from the 1972 Statistical Abstract of the U.S. The population distribution is the result of dividing the State population by the total population for the States and other political entities as defined in the Act.

(2) Extent of the Problem—The extent of the actual or potential water supply problems could take into account the degree of compliance of each water supply system with Standards to be promulgated under the Act and the seriousness of the deficiencies. However, only limited data in a small number of States is currently available to depict the problem. Furthermore, each State would be required to maintain the surveillance over all water supply systems subject to the Act and to carry out other activities that would not be in direct proportion to the problem. Therefore, it is felt that a more appropriate measure of the problem is the cost of an adequate State water supply program. This was developed by multiplying the estimated number of water supply systems in each State by the surveillance cost per system. The results for each State was then represented as a percentage of the total cost for all States.

(3) Financial Need—The financial need was calculated as the average national per capita income divided by the average State per capita income and then normalized to 100%. Income figures for 1970, as listed in the 1971 Statistical Abstract, were utilized for the 50 States and the District of Columbia. Comparable data for Puerto Rico, the Virgin Islands, Guam and American Samoa was not available, therefore, for the purpose of these calculations they were assumed to be the same as the national average.

41

DISTRIBUTION OF STATE PROGRAM GRANT FUNDS

State	Percent population	Percent program cost	Relative financial need percent	State	Percent population	Percent program cost	Relative financial need percent
Connecticut	1.47	1.19	1.36	Ohio	5.17	2.75	1.65
Maine	.48	.47	2.03	Wisconsin	2.14	1.91	1.77
Massachusetts	2.76	1.32	1.53	Arkansas	.93	1.22	2.40
New Hampshire	.36	.36	1.82	Louisiana	1.77	1.70	2.15
Rhode Island	.46	.17	1.68	New Mexico	.49	.91	2.15
Vermont	.21	.55	1.88	Oklahoma	1.24	1.63	2.02
New Jersey	3.48	1.71	1.45	Texas	5.43	7.32	1.87
New York	8.85	5.57	1.38	Iowa	1.37	2.01	1.77
Puerto Rico	1.32	.41	1.68	Kansas	[illegible]	1.62	1.73
Virgin Islands	.03	.01	1.68	Missouri	2.27	2.33	1.80
Delaware	.27	.15	1.55	Nebraska	.72	1.34	1.78
District of Columbia	.37	.07	1.19	Colorado	1.07	1.12	1.75
Maryland	1.90	1.01	1.55	Montana	.34	.52	1.95
Pennsylvania	5.72	3.80	1.68	North Dakota	.30	.54	2.24
Virginia	2.26	3.13	1.83	South Dakota	.32	1.18	2.07
West Virginia	.85	1.60	2.24	Utah	.51	1.05	2.05
Alabama	1.67	1.35	2.32	Wyoming	.16	.28	1.92
Florida	3.29	3.70	1.83	Arizona	.86	2.27	1.85
Georgia	2.23	4.26	2.00	California	9.68	13.07	1.46
Kentucky	1.56	1.28	2.15	Hawaii	.37	.24	1.45
Mississippi	1.08	1.75	2.57	Nevada	.24	.22	1.45
North Carolina	2.47	4.84	2.07	American Samoa	.01	.09	1.68
South Carolina	1.26	1.16	2.25	Guam	.04	.02	1.68
Tennessee	1.90	1.37	2.15	Alaska	.15	.19	1.41
Illinois	5.39	4.63	1.46	Idaho	.35	.68	2.05
Indiana	2.52	1.45	1.75	Oregon	1.01	1.38	1.78
Michigan	4.31	1.95	1.63	Washington	1.65	1.32	1.65
Minnesota	1.85	1.83	1.73				

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., June 6, 1973.

MR. MICHAEL BROWNLEE,
Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR MIKE: In accordance with your request attached is the supplemental information to our letter to Senator Magnuson of June 4 concerning the possible distribution of State water supply program grants under S. 433. We are also enclosing a breakdown by activity of the funding projections of the Administration's Safe Drinking Water Act of 1973 as you requested.

Please advise us if we can be of further assistance.

Sincerely yours,

ROBERT G. RYAN,
Acting Director,
Office of Legislation.

Attachments.

DISTRIBUTION OF STATE PROGRAM GRANT FUNDS

Combination of Factors:

Attachment A consists of the three factors, by State, that are used in the calculation of grant fund distribution among the States.

Percent population is the distribution of the total population among the various States.

Percent program cost is the distribution of the total cost of conducting adequate State water supply surveillance programs.

Relative financial need (percent) is based upon the inverse of the State per capita income divided by the national per capita income.

Attachment B consists of the combination of the three factors in three different ways.

The equal weight method is the arithmetic average of the three factors.

The 20–40–40 and the 10–45–45 are the adjusted weight arithmetic averages of the three factors.

ATTACHMENT A

DISTRIBUTION OF STATE PROGRAM GRANT FUNDS

State	Percent population	Percent program cost	Relative financial need (percent)	State	Percent population	Percent program cost	Relative financial need (percent)
Connecticut	1.47	1.19	1.36	Ohio	5.17	2.75	1.65
Maine	.48	.47	2.03	Wisconsin	2.14	1.91	1.77
Massachusetts	2.76	1.32	1.53	Arkansas	.93	1.22	2.40
New Hampshire	.36	.36	1.82	Louisiana	1.77	1.70	2.15
Rhode Island	.46	.17	1.68	New Mexico	.49	.91	2.15
Vermont	.21	.59	1.88	Oklahoma	1.24	1.63	2.02
New Jersey	3.48	1.71	1.45	Texas	5.43	7.32	1.87
New York	8.85	5.57	1.38	Iowa	1.37	2.01	1.77
Puerto Rico	1.32	.41	1.68	Kansas	1.09	1.62	1.73
Virgin Islands	.03	.01	1.68	Missouri	2.27	2.33	1.80
Delaware	.27	.15	1.55	Nebraska	.72	1.34	1.78
District of Columbia	.37	.07	1.19	Colorado	1.07	1.12	1.75
Maryland	1.90	1.01	1.55	Montana	.34	.52	1.95
Pennsylvania	5.72	3.80	1.68	North Dakota	.30	.54	2.24
Virginia	2.26	3.13	1.83	South Dakota	.32	1.18	2.07
West Virginia	.85	1.60	2.24	Utah	.51	1.05	2.05
Alabama	1.67	1.35	2.32	Wyoming	.16	.28	1.92
Florida	3.29	3.70	1.83	Arizona	.86	2.27	1.85
Georgia	2.23	4.26	2.00	California	9.68	13.07	1.46
Kentucky	1.56	1.28	2.15	Hawaii	.37	.24	1.45
Mississippi	1.08	1.75	2.57	Nevada	.24	.22	1.45
North Carolina	2.47	4.84	2.07	American Samoa	.01	.09	1.68
South Carolina	1.26	1.16	2.25	Guam	.04	.02	1.68
Tennessee	1.90	1.37	2.15	Alaska	.15	.19	1.41
Illinois	5.39	4.63	1.46	Idaho	.35	.68	2.05
Indiana	2.52	1.45	1.75	Oregon	1.01	1.38	1.78
Michigan	4.31	1.95	1.63	Washington	1.65	1.32	1.65
Minnesota	1.85	1.83	1.73				

ATTACHMENT B

DISTRIBUTION OF STATE PROGRAM GRANT FUNDS, $8,000,000—FISCAL YEAR 1974

State	Percent of—			In thousands—		
	Equal weight	20–40–40	10–45–45	Equal weight	20–40–40	10–45–45
Connecticut	1.34	1.30	1.28	107.2	104.0	102.4
Maine	.99	1.08	1.16	79.2	86.4	92.8
Massachusetts	1.87	1.68	1.54	149.6	134.4	123.2
New Hampshire	.85	.93	1.00	68.0	74.4	80.0
Rhode Island	.77	.82	.86	61.6	65.6	68.8
Vermont	.88	1.01	1.10	70.4	80.8	88.0
New Jersey	2.21	1.95	1.75	176.8	156.0	140.0
New York	5.27	4.54	4.00	421.6	363.2	320.0
Puerto Rico	1.14	1.09	1.06	91.2	87.2	84.8
Virgin Islands	.57	.67	.75	45.6	53.6	60.0
Delaware	.66	.73	.77	52.8	58.4	61.6
District of Columbia	.54	.55	.59	43.2	44.8	47.2
Maryland	1.49	1.40	1.33	119.2	112.0	106.4

ATTACHMENT B—Continued

DISTRIBUTION OF STATE PROGRAM GRANT FUNDS, $8,000,000—FISCAL YEAR 1974—Continued

State	Percent of—			In thousands—		
	Equal weight	20-40-40	10-45-45	Equal weight	20-40-40	10-45-45
Pennsylvania	3.73	3.33	3.03	298.4	266.4	242.4
Virginia	2.41	2.43	2.44	192.8	194.4	195.2
West Virginia	1.56	1.70	1.80	124.8	136.0	144.0
Alabama	1.78	1.79	1.80	142.4	143.2	144.0
Florida	3.53	2.86	2.80	282.4	228.8	224.0
Georgia	2.83	2.94	3.03	226.4	235.2	242.4
Kentucky	1.66	1.68	1.68	132.8	134.4	134.4
Mississippi	1.80	1.93	2.03	144.0	154.4	162.4
North Carolina	3.13	3.24	3.34	250.4	259.2	267.2
South Carolina	1.56	1.61	1.65	124.8	128.8	132.0
Tennessee	1.81	1.78	1.76	144.8	142.4	140.8
Illinois	3.83	3.50	3.26	306.4	280.0	260.8
Indiana	1.91	1.78	1.68	152.8	142.4	134.4
Michigan	2.63	2.29	2.03	210.4	183.2	162.4
Minnesota	1.80	1.79	1.77	144.0	143.2	141.6
Ohio	3.19	2.79	2.48	255.2	223.2	198.4
Wisconsin	1.94	1.88	1.85	155.2	150.4	148.0
Arkansas	1.52	1.62	1.71	121.6	129.6	136.8
Louisiana	1.87	1.89	1.89	149.6	151.2	151.2
New Mexico	1.18	1.31	1.43	94.4	104.8	114.4
Oklahoma	1.63	1.69	1.75	130.4	135.2	140.0
Texas	4.87	4.74	4.67	389.6	379.2	373.6
Iowa	1.72	1.77	1.82	137.6	141.6	145.6
Kansas	1.48	1.54	1.59	118.4	123.2	127.2
Missouri	2.13	2.10	2.07	170.4	168.0	165.6
Nebraska	1.28	1.38	1.47	102.4	110.4	117.6
Colorado	1.31	1.35	1.40	104.8	108.0	112.0
Montana	.94	1.04	1.10	75.2	83.2	88.0
North Dakota	1.03	1.16	1.28	82.4	92.8	102.4
South Dakota	1.19	1.35	1.49	95.2	108.0	119.2
Utah	1.20	1.34	1.44	96.0	107.2	115.2
Wyoming	.79	.90	1.01	63.2	72.0	80.8
Arizona	1.66	1.81	1.93	132.8	144.8	154.4
California	8.07	7.73	7.49	645.6	618.4	599.2
Hawaii	.69	.74	.78	55.2	59.2	62.4
Nevada	.64	.70	.76	51.2	56.0	60.8
American Samoa	.59	.70	.79	47.2	56.0	63.2
Guam	.58	.67	.75	46.4	53.6	60.0
Alaska	.58	.66	.72	46.4	52.8	57.6
Idaho	1.03	1.16	1.25	82.4	92.8	100.0
Oregon	1.39	1.46	1.52	111.2	116.8	121.6
Washington	1.54	1.51	1.49	123.2	120.8	119.2

SAFE DRINKING WATER ACT OF 1973

[In thousands of dollars]

	1974	1975	1976	1977	1978
5-year projections of EPA costs for implementing administration bill[1]	9,000	15,000	20,000	20,000	20,000

[1] Estimates include current funding levels of approximately $4,300,000 annually.

SAFE DRINKING WATER ACT OF 1973, ADMINISTRATION BILL

[Dollars in millions]

Activity	1974	1975	1976	1977	1978
Drinking water standards (sec. 4)	0.3	0.5	0.5	0.5	0.5
Monitoring and enforcement (secs. 5, 8, 15)	1.6	2.5	2.5	3.5	4.1
Imminent hazards (sec. 6)	.6	1.0	1.0	1.0	1.2
Research, technical assistance and information (sec. 7)	6.5	11.0	16.0	15.0	14.2
Total	9.0	15.0	20.0	20.0	20.0

[From the Congressional Record, Nov. 26, 1974]

SENATE DEBATE ON S. 433

Mr. HART. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 433.

The PRESIDING OFFICER (Mr. DOMENICI) laid before the Senate the amendments of the House of Representatives to the bill (S. 433) to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes, as follows: Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after the title XIII the following new title:

"TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

"PART A—DEFINITIONS

"DEFINITIONS

"SEC. 1401. For purposes of this title:

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

"(3) The term 'maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such terms includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection

with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"(5) The term 'supplier of water' means any person who owns or operates a public water system.

"(6) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(7) The term 'Administrator' means the Administrator of Environmental Protion Agency.

"(8) The term 'Agency' means the Environmental Protection Agency.

"(9) The term 'Council' means the National Drinking Water Advisory Council established under section 1446.

"(10) The term 'municipality' means a city, town, other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

"(11) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, or municipality.

"Part B—Public Water Systems

"COVERAGE

"Sec. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; and

"(3) which does not sell water to any person.

"NATIONAL DRINKING WATER REGULATIONS

"Sec. 1412. (a)(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

"(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than one year after the date of their promulgation.

"(b)(1)(A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

"(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

"(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health

of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

"(2) On the date the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

"(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1)(B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (1)(B) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (2) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term 'feasible' means feasible with the use of technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

"(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 5 years.

"(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect not later than 1 year after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

"(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

"(e)(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, includ-

ing a list of the major research priorities and estimated costs necessary to conduct such priority research.

"(3) In developing its proposals for recommended maximum contaminant levels under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

"(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

"(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

"(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

"(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

"(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusion based on such correlation shall be included in the report of the study.

"(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

"(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report direct by paragraph (2) of this subsection.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b) that such State—

"(1) has adopted drinking water regulations which (A) in the case of the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) in the case of the period after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and

"(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in which variances and exemptions may be granted under sections 1415 and 1416.

"(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief

executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

"(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) determine that he is unable to make such determination and notify the applicant in writing of the reasons for his inability to make such determination.

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1414. (a)(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time.

"(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance). If—

"(i) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to subparagraph (A), and

"(ii)(I) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(II) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time the State abused its discretion in carrying out primary enforcement responsibility for public water systems,

the Administrator may commence a civil action under subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

"(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b).

"(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule, control measure, or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

"(1) authorized under paragraph (1) or (2) of subsection (a), or

"(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

"(c) Each owner or operator of a public water system shall give notice to the persons served by it—

"(1) of any failure on the part of the public water system to—

"(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

"(B) perform monitoring required by section 1445(a), and

"(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(A) the existence of such variance or exemption, and

"(B) any failure to comply with the requirements of any schedule or control measure prescribed pursuant to the variance or exemption.

The Administrator shall be regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), and shall be furnished to the other communications media serving such area. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

"(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

"(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with repect to which such finding was made, and

"(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

"VARIANCES

"SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

"(1)(A) A State which has primary enforcement responsibilty for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water sys-

tems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance granted under this subparagraph shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.

"(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

"(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance.

"(D)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or monitoring or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—

"(I) identify each public water system with respect to which the finding was made,

"(II) specify the reasons for the finding, and

"(III) as appropriate, propose revocations of specific variances or propose revised control measures or monitoring or other requirements for specific public water systems granted variances, or both.

"(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised variance control measures or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(iii) If a State is notified under clause (i) of this subpargraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a control measure or other requirement for a variance and if, before a revocation of such variance or a revision of such control measure or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or control measure or other requirement which the Administrator determines makes his finding inapplicable to such variance or control measure or other requirements, the Administrator shall rescind the application of his findings to that variance or control measure or other requirement. No variance revocation or revised control measure or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised control measure or other requirement was proposed.

"(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances

in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

"(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

"(b) Any control measure or other requirement on which a variance granted under this section is conditioned may be enforced under section 1414 as if such control measure was part of a national primary drinking water regulation.

"(c) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"EXEMPTIONS

"SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

"(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement, and

"(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement.

"(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

"(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

"(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement of treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

"(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, 1981; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

"(B) Notwithstanding clauses (i) and (ii) of subpargraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed

by interim national primary drinking water regulations, be not later han January 1, 1983; and

"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

"(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

"(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption and document the need for the exemption.

"(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title.

"(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—

"(i) identify each exempt public water system with respect to which the finding was made,

"(ii) specify the reasons for the finding, and

"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

"(B) The Administrator shall provide reasonbale notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within the State or to a schedule prescribed pursuant to such an exempion and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

"(e) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and

treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR STATE PROGRAMS

"SEC. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

"(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

"(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

"(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers underground water sources;

"(C) shall include inspection, monitoring, record-keeping, and reporting requirements; and

"(D) shall apply (i) as prescribed by section 1447 (b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

"(2) Regulations of the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas, unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

"(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

"(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

"(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i), but after reasonable notice and public hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State has found, on the record of such hearing—

"(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

"(d) For purposes of this part:

"(1) The term 'underground injection' means the subsurface emplacement of fluids by well injection.

"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources Such list may be amended from time to time.

"(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

"(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

"(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

"(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

"(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

"(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of of natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

"SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

"(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

"(b)(1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

"(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources, shall be subject to a civil penalty of not more than $5,000 per day. In addition, if such violation or failure to comply is willful, such person shall be punished by a fine of not more than $5,000 per day.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law of regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"INTERIM REGULATION OF UNDERGROUND INJECTIONS

"SEC. 1424. (a)(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one acquifier which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

"(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish, it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

"(b)(1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection may be operated in such area unless the Administrator has issued a permit for such operation.

"(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

"(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the acquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

"(c) Any person who operates a new underground injection well in violation of subsection (b) shall be subject to a civil penalty of not more than $5.000 for each day in which such violation occurs. In addition, if such violation is willful, such person shall be punished by a fine of not more than $5,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

"(d) For purposes of this section, the term 'new underground injection well' means an underground injection well whose operation was not approved by

appropriate State and Federal agencies before the date of enactment of this title.

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an acquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such acquifer through a recharge zone.

"PART D—EMERGENCY POWERS

"EMERGENCY POWERS

"SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. Such action may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) shall be punished by a fine of not more than $5,000 per day of violation.

"PART E—GENERAL PROVISIONS

"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

"SEC. 1441. (a) If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a 'certification of need') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

"(b)(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

"(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

"(3) Within 30 days after—

"(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

"(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

"(c)(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, producers, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

"(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

"(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

"(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

"(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

"(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

"(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

"(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

"(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

"(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a

temporary restraining order or injunction (including a mandatory injunction) to enforce the provision of such order.

"(f) No certification of need or order issued under this section may remain in effect—

"(1) for more than one year, or

"(2) after June 30, 1977,

whichever occurs first.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION TRAINING OF PERSONNEL

"SEC. 1442. (a) (1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

"(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

"(3) The Administrator shall conduct studies and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

"(4) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

"(B) means of control of such water disposal. Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

"(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

"(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

"(b) In carrying out this title, the Administrator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purpose of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d))).

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR STATE PROGRAMS

"SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

"(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed primary enforcement responsibility for public water systems within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. To the extent the applicable appropriation permits, the allotment of a State for any fiscal year shall not be less than $50,000.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 3, 1977.

"(b)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within two years from the date of such grant an underground water source protection, and

"(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed primary enforcement responsibility for underground water sources within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the State on the basis of population, geographical area, and other relevant factors.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

"(c) For purposes of this section:

"(1) The term 'public water system supervision program' means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

"(2) The term 'undeground water source protection program means a program for the adoption and the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422 (b)(1)(A)(ii).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

"SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

"(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations:

"(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

"(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

"(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

"RECORDS AND INSPECTIONS

"SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b)(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or person in charge of any of the property of such supplier or other person), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

"(2) No entry may be made under the first sentence of paragraph (1) in any State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than $5,000.

"(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

"(2) Any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drink-

ing water. For purposes of this subsection the term 'information requested under this section' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term 'person' includes a Federal agency.

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1446. (a) (1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment. The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412.

"(b) (1) Each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(2) The Administrator shall waive compliance with paragraph (1) of this subsection upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

"GENERAL PROVISIONS

"SEC. 1448. (a)(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

"(d)(1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and function set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorney appointed by the Administrator shall appear and represent him.

"(g) The provisions of the title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

"(h) Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to Congress its comments respecting any such report.

"(i)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this title or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

"(B) testified or is about to testify in any such proceeding, or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

"(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. With-

in 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (III) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement and proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title."

(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

90-224 O - 82 - 55

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such a report shall include recommendations for improving rural water supplies.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977.

BOTTLED DRINKING WATER

SEC. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".

Amended the title so as to read: "An Act to amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes."

Mr. HART. Mr. President, the Safe Drinking Water Act has been before Congress for some 4 years. There has been an intense effort to resolve the items in disagreement. One that was of particular concern to the Senator from New Hampshire, the ranking member of the Committee on Commerce, and the Senator from Alaska (Mr. Stevens) was the inclusion by the Senate of a requirement that not less than 1 percent of the program grant money be available to each State. That, Mr. President, has been and is included in the amendment which I shall offer.

Mr. President, I move that the Senate concur in the amendments of the House with an amendment.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

In lieu of the matter proposed to be inserted by the amendment of the House of Representatives to the text of the bill insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Service Act is amended by inserting after title XIII the following new title:

"TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

"PART A—DEFINITIONS

"DEFINITIONS

"SEC. 1401. For purposes of this title:

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) species contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and the technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

"(3) The terms 'maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"(5) The term 'supplier of water' means any person who owns or operates a public water system.

"(6) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(7) The term 'Administrator' means the Admiuistrator of the Environmental Protection Agency.

"(8) The term 'Agency' means the Environmental Protection Agency.

"(9) The term 'Council' means the National Drinking Water Advisory Council established under section 1446.

"(10) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

"(11) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(12) The term 'person' means an individual, corporation, company, association, partnership, State, or municipality.

"Part B—Public Water Systems

COVERAGE

"Sec. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

"(3) which does not sell water to any person; and

"(4) which is not a carrier which conveys passengers in interstate commerce.

"NATIONAL DRINKING WATER REGULATIONS

"SEC. 1412. (a)(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

"(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect eighteen months after the date of their promulgation.

"(b)(1)(A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

"(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

"(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A) he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

"(2) On the date the Administrator establishes pursuant to paragraph (1)(B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

"(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1)(B). This maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (1)(B) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (1)(B) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1)(B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term 'feasible' means feasible with the use of the best technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

"(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulating shall be reviewed at least once every 3 years.

"(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect eighteen months after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

"(6) No national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

"(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

"(e)(1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b)(2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

"(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

"(3) In developing its proposals for recommended maximum contaminant levels under paragraph (2)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

"(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

"(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

"(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

"(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

"(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

"(5) Neither the report of the study under this subsection nor any draft of such reports shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

"(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (a) of this subsection.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

"(1) has adopted drinking water regulations which (A) in the case of the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) in the case of the period after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations including conducting such monitoring and making such inspections as the Administrator may require by regulation;

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;

"(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416; and

"(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

"(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

"(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and notify the applicant in writing of the reasons for his denial.

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1414. (a)(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule, or other requirement imposed pursuant thereto,

he shall give public notice of such finding and request the State to report within such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time.

"(B) If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of the notice given pursuant to subparagraph (A), he shall give public notice of such finding and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system into compliance and for any failure to take steps to bring the system into compliance).

"(i) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to subparagraph (A); and

"(ii) (α) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence; or

"(β) the State submits such report within such period but the Administrator, after considering the report, determines that the State abused its discretion in carrying out primary enforcement responsibility for public water systems by both—

"(I) failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time, and

"(II) failing to assure by such day the provision through alternative means of safe drinking water by the earliest feasible time;

the Administrator may commence a civil action under subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

"(A) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

"(B) for which a variance under section 1415(a)(2) or an exemption under section 1416(f) is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b).

"(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

"(1) authorized under paragraph (1) or (2) of subsection (a), or

"(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter, in an action brought under this subsection, such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies; and, if the court determines that there has been a willful violation of the regulation or schedule or other requirement with respect to which the action was brought, the court may, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, impose on the violator a civil penalty of not to exceed $5,000 for each day in which such violation occurs.

"(c) Each owner or operator of a public water system shall give notice to the persons served by it—

"(1) of any failure on the part of the public water system to—

"(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

"(B) perform monitoring required by section 1445(a), and

"(2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(A) the existence of such variance or exemption, and

"(B) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), shall be furnished to the other communications media serving such area, and shall be furnished to the communications media as soon as practicable after the discovery of the violation with respect to which the notice is required. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

"(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

"(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

"(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

"VARIANCES

"SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

"(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the best technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph, the State shall prescribe within one year of the date the variance is granted, a schedule for—

"(i) compliance (including increments of progress) by the public water system with each contaminant level requirement with respect to which the variance was granted, and

"(ii) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant

level requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subparagraph may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice. A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine).

"(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

"(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance (and in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

"(D) Each public water system's variance granted by a State under subparagraph (A) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to that subparagraph. The requirements of each schedule prescribed by a State pursuant to that subparagraph shall be enforceable by the State under its laws. Any requirement of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under subparagraph (G) or the schedule is revised by the Administrator under such subparagraph.

"(F) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of variances and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other information concerning new scientific matters bearing on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

"(G)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to prescribe schedules in accordance with subparagraph (A), the Administrator shall notify

the State of his findings. In determining if a State has abused its discretion in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variances were complied with. A notice under this clause shall—

"(I) identify each public water system with respect to which the finding was made.

"(II) specify the reasons for the finding, and

"(III) as appropriate, propose revocations of specific variances or propose revised schedules or other requirements for specific public water systems granted variances, or both.

"(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised schedules or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a schedule or other requirement for a variance and if, before a revocation of such variance or a revision of such schedule or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or schedule or other requirement which the Administrator determines makes his findings inapplicable to such variance or schedule or other requirement, the Administrator shall rescind the application of his finding to that variance or schedule or other requirement. No variance revocation or revised schedule or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule or other requirement was proposed.

"(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

"(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

"(b) Any schedule or other requirement on which a variance granted under paragraph (1)(B) or (2) of subsection (a) is conditioned may be enforced under section 1414 as if such schedule or other requirement was part of a national primary drinking water regulation.

"(c) If an application for a variance under subsection (a) is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

"(d) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"EXEMPTIONS

"SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

"(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement,

"(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement, and

"(3) the granting of the exemption will not result in an unreasonable risk to health.

"(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, within one year of the date the exemption is granted, a schedule for—

"(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

"(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

"(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

"(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, 1981; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

"(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

"(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

"(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

"(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

"(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

"(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption (including the basis for the finding required by subsection (a)(3) before the exemption may be granted) and document the need for the exemption.

"(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effec-

tive date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

"(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. In determining if a State has abused its discretion in granting exemptions in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the exemptions and if the requirements applicable to the granting of the exemptions were complied with. A notice under this subparagraph shall—

"(i) identify each exempt public water system with respect to which the finding was made,

"(ii) specify the reasons for the finding, and

"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

"(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

"(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

"(e) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifices for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

"(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions uder this section if it had primary enforcement responsibility.

"(g) If an application for an exemption under this section is made, the State receiving the application or the Administrator, as the case may be shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR STATE PROGRAMS

"SEC. 1421. (a)(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested States entities.

"(b)(1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d)(2). Such regulations shall require that a State program, in order to be approved under section 1422—

"(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

"(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers drinking water sources;

"(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

"(D) shall apply (i) as prescribed by section 1447(b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

"(2) Regulations of the Administrator under this section for State underground injection control programs may not prescribe requirements which interfere with or impede—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

"(c)(1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

"(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

"(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b)(1)(B)(i)), but after reasonable notice and public hearing, one or more temporary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State finds, on the record of such hearing—

"(A) that technology (or other means) to permit safe injections of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

"(d) For purposes of this part:

"(1) The term 'underground injection' means the subsurface emplacement of fluids by well injection.

"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

"(b)(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

"(i) has adoped after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

"(ii) will keep such records and make such report with respect to its activities under its underground injection control program as the Administrator may require by regulation.

"(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

"(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

"(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

"SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice to such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

"(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

"(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

"(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

"(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

"(b)(1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed $5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

"(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources (A) shall be subject to a civil penalty of not more than $5,000 for each day of such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (B), be fined not more than $10,000 for each day of such violation.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

"INTERIM REGULATION OF UNDERGROUND INJECTIONS

"SEC. 1424. (a) (1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the opertaion of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one acquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

"(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

"(b) (1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

"(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

"(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

"(c) Any person who operates a new underground injection well in violation of subsection (b) (1) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs, or (2) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (1), be fined not more than $10,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

"(d) For purposes of this section, the term 'new underground injection well' means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an acquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such acquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the acquifier.

"PART D—EMERGENCY POWERS

"EMERGENCY POWERS

"SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. The action which the Administrator may take may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day in which such violation occurs or failure to comply continues.

"PART E—GENERAL PROVISIONS

"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

"SEC. 1441. (a) If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a 'certification of need') that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

"(b)(1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

"(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for by such application, and (C) provide an opportunity for the submission of written comments on such application. The re-

quirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

"(3) Within 30 days after—

"(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

"(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

"(c)(1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

"(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

"(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

"(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

"(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

"(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

"(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c)(1), that such delay or failure was caused solely by compliance with such order.

"(e)(1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c)(1) shall be fined not more than $5,000 for each such failure to comply.

"(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be subject to a civil penalty of not more than $2,500 for each such failure to comply.

"(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c)(1), he may petition a United States district court to issue a temporary restraining order or preliminary or permanent injunction (including a mandatory injunction) to enforce the provision of such order.

"(f) No certification of need or order issued under this section may remain in effect—

"(1) for more than one year, or

"(2) after June 30, 1977, whichever occurs first.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION TRAINING OF PERSONNEL

"SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) impoved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

"(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and muncipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

"(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

"(4) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

"(B) means of control of such waste disposal. Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

"(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

"(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

"(b) In carrying out this title, the Administrator is authorized by—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d))).

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1975; $25,000,000 for the fiscal year ending June 30, 1976; and $30,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR STATE PROGRAMS

"SEC. 1443. (a) (1) For allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

"(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for public water systems within the State.

No State shall receive less than 1 per centum of the annual appropriation for grants under paragraph (1): *Provided*, That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further*, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under the regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. To the extent the applicable appropriation permits, the allotment of a State for any fiscal year shall not be less than $50,000.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977.

"(b) (1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

"(A) has established or will establish within two years from the date of such grant an underground water source protection, and

"(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State.

"(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year beginning on the date the grant is made, an underground water source protection program.

"(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

"(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977.

"(c) For purposes of this section:

"(1) The term 'public water system supervision program' means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

"(2) The term underground water source protection program means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

"SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

"(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations:

"(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of an other costs, as determined by the Administrator.

"(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.

"(d) The Administrator during the fiscal years ending June 30, 1975, nad June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot reasonably obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

"RECORDS AND INSPECTIONS

"SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b)(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a national primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or person in charge of any of the property of such supplier or other person), is authorized to enter any establishment, facility, or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representatives designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance with this title.

"(2) No entry may be made under the first sentence of paragraph (1) in an establishment, facility, or other property of a supplier of water or other person subject to a national primary drinking water regulation if the establishment facility, or other property is located in a State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. No State agency which receives notice under this paragraph of any entry proposed to be made under paragraph (1) may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; and if a State agency

so uses such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice under this paragraph.

"(c) Whoever fails or refuses to comply with any requirement or subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) may be fined not more than $5,000.

"(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

"(2) Any information required under this section (A) may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this title or to committees of the Congress, or when relevant in any proceeding under this title, and (B) shall be disclosed to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term "information required under this section' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the terms 'person' includes a Federal agency.

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1446. (a)(1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member apopinted to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expires as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment. The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(d) Section 15(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412, and each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(b) The Administrator shall waive compliance with subsection (a) upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

"JUDICIAL REVIEW

"SEC. 1448. (a) A petition for review of—

"(1) action of the Administrator in promulgating any national primary drinking water regulation under section 1412, any regulation under section 1413(b)(1), any regulation under section 1414(c), any regulation for State underground injection control programs under section 1421, or any general regulation for the administration of this title may be filed only in the United States Court of Appeals for the Ditsrict of Columbia Circuit; and

"(2) action of the Administrator in promulgating any other regulation under this title issuing any order under this title, or making any determination under this title may be filed only in the United States court of appeals for the appropriate circuit.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulation or issuance of the order with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

"(b) The United States district courts shall have jurisdiction of actions brought to review (1) the granting of, or the refusing to grant, a variance or exemption under section 1415 or 1416 or (2) the requirements of any schedule prescribed for a variance or exemption under such section or the failure to prescribe such a schedule. Such an action may only be brought upon a petition for review filed with the court within the 45-day period beginning on the date the action sought to be reviewed is taken or, in the case of a petition to review the refusal to grant a variance or exemption or the failure to prescribe a schedule, within the 45-day period beginning on the date action is required to be taken on the variance, exemption, or schedule, as the case may be. A petition for such review may be filed after the expiration of such period if the petition is based solely on grounds arising after the expiration of such period. Action with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

"(c) In any judicial proceeding in which review is sought of a determination under this title required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as to the court may deem proper. The Administrator may modify his findings as to the

facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"CITIZEN'S CIVIL ACTION

"SEC. 1449. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement prescribed by or under this title, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator.

No action may be brought under paragraph (1) against a public water system for a violation of a requirement prescribed by or under this title which occurred within the 27-month period beginning on the first day of the month in which this title is enacted. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce in an action brought under this subsection any requirement prescribed by or under this title or to order the Administrator to perform an act or duty described in paragraph (2), as the case may be.

"(b) No civil action may be commenced—

"(1) under subsection (a) (1) of this section respecting violation of a requirement prescribed by or under this title—

"(A) prior to sixty days after the plaintiff has given notice of such violation (i) to the Administrator, (ii) to any alleged violator of such requirement and (iii) to the State in which the violation occurs, or

"(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice required by this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

No person may commence a civil action under subsection 1415 or 1416 for a variance or exemption, unless such person shows to the satisfaction of the court that the State has in a substantial number of cases failed to prescribe such schedules.

"(d) The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this title or to seek any other relief.

"GENERAL PROVISIONS

"SEC. 1450. (a)(1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

"(d)(1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under Part G of title III of this Act.

"(h) Not later than April 1 of each year; the Administrator shall submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to such committees of Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to such committees of Congress its comments respecting any such report.

"(i)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(A) commenced, cause to be commenced, or is about to commence or cause to be commenced a proceeding under this title or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

"(B) testified or is about to testify in any such proceeding, or

"(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this title.

"(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed

by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complaintant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this title.".

(b) Section 2(f) of the Public Health Service Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

(b) Such survey shall be completed within eighteen months of the date of enactment of this Act and a final report thereon submitted, not later than six months

after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) There are authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1975; $2,000,000 for the fiscal year ending June 30, 1976; and $1,000,000 for the fiscal year ending June 30, 1977.

BOTTLED DRINKING WATER

SEC. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".

Mr. HART. Mr. President, the Safe Drinking Water Act has been before the Congress for some 4 years. It is legislation which has received careful consideration on both sides of the Capitol. The Senate has passed the legislation twice, once in the 92d Congress and again on June 22, 1973. Just this last Tuesday, the House of Representatives passed its version of the bill. It is because this legislation is so vitally needed that I have offered the amendment to the House amendment which should assure, if approved by the Congress, that the legislation go promptly to the President's desk.

The need for vast improvement in our drinking water supplies has been well documented in recent years. Dating from the first major comprehensive study of drinking water systems, the community water supply study conducted by HEW in 1970, study after study has indicated that our confidence in drinking water is often misplaced.

For example, the 1970 study of 969 water supply systems indicated that 36 percent of the tap water samples exceed current standards applicable to water served aboard interstate carriers. Extrapolated to the country as a whole, as many as 8 million people could be served water which is potentially dangerous. Physical facilities were poorly constructed, unqualified operators were manning water treatment plants, State inspections were deficient, and a number of other inadequacies were pointed out.

EPA data indicates that in excess of 130 disease outbreaks attributable to bad drinking water were detected between 1961 and 1970 affecting some 46,000 people. Twenty deaths occurred.

The most recent discovery that in the presence of chlorine, certain organic materials contained in raw water sources could form suspected carcinogens can only speak to the urgency with which we must increase our research efforts and our ability to remove harmful materials from drinking water.

My motion would accept the House amendment to the Senate bill with an amendment. Quite frankly, the House of Representatives has labored on a product which reflects much thought and effort. As the changes necessary to the House bill to bring it closer to conformity

with the Senate bill are not extensive, the expedited procedure of accepting the House bill with amendment would not subject yet another bill to a conference committee with all of the resultant delays and problems suggested by that procedure.

In addition, however, it does serve the very useful purpose of giving the Congress an opportunity to override a Presidential veto, should that occur. While this Congress probably has 3 full weeks of life remaining, it is important that both the Senate and the House of Representatives act on this legislation without delay.

As the House of Representatives could well be distracted from legislative business for much of next week due to organizational meetings for the 94th Congress and other activities, they must act on this bill soon so that the final product may be messaged to the President in time for him to be required to take affirmative action either approving or vetoing the legislation. If we were to wait until the week of December 9, insufficient time would remain for the return of the bill to the Congress should the President choose to do so. It should also be said that representatives of the President have so threatened a veto with respect to this legislation.

The amendment I propose to the House amendment is not extensive. It has been worked out in concert with the leadership of the House Interstate and Foreign Commerce Committee by whom this legislation was considered in the House. In fact, I believe it is fair to say that the compromises struck by this amendment will have broad support in the House of Representatives while moving closer to the principles embodied in the Senate bill on a number of important points. In fact, I believe it is fair to say that the compromises struck are very close to those which might emerge from a committee of conference had one been appointed to consider the conflicting versions.

It would be useful to briefly explain the bill's major provisions and how they differ from the similar provisions of the Senate-passed bill. Having done this, I will then ask that a rather extensive discussion and explanation of the proposed amendments be inserted in the Record.

STANDARD SETTING AUTHORITY **[Sec. 1412]**

The proposed amendment authorizes the Environmental Protection Agency to set primary and secondary drinking water regulations. Primary regulations would specify the maximum level of contaminants in drinking water which shall protect health to the extent feasible using technology and treatment techniques which the Administrator finds are generally available. Costs are to be taken into consideration but it is envisioned that the standards will be based on a best case assumption with respect to the ability of a city to impose treatment technology. For those cities with lesser capabilities, an exemption and variance procedure is designed to provide relief.

In any case in which contaminant detection methods are faulty, the standards are to require treatment techniques which will lead to a reduction in the level of contaminants to the maximum extent feasible.

In addition, EPA would set secondary standards which are basically asthetic standards and which shall only be recommended guidelines to the States and the water supply systems under their jurisdiction.

EXCEPTIONS AND VARIANCES [Secs. 1415, 1416]

In order to provide relief for those water supply systems which are less able to afford treatment technology than the best case situation which forms the basis for the national primary standards, a variance and exemption procedure is authorized by the amendment. This is consistent with the House-passed version of the bill with some additions worked out which would assure that the public health would reasonably be protected under these procedures.

If intake water quality to a water supply system is of such poor quality that a water supply system simply could not afford to meet the standards, the States could grant variances or exemptions from the national primary requirements to the extent that unreasonable threats to public health would be avoided. In each case, schedules would be required of the system which would bring them into compliance as soon as is feasible and at a rate which avoids unreasonable threats to health.

FEDERAL ENFORCEMENT OF DRINKING WATER STANDARDS [Sec. 1414]

Under the Senate bill, the Administrator is authorized to enforce the primary drinking water standards if they extend beyond 30 days after he gives notification to the State in which the water system is operating and that appropriate remedial action has not been taken to prevent any unreasonable danger to public health.

The proposed amendment does not authorize EPA to enforce until 60 days after notification has taken place and in addition, Federal enforcement could only take place if: First, the State fails to submit a report to EPA as to the steps being taken to bring the system into compliance or; second, the State has "abused its discretion in carrying out primary enforcement responsibility." While the enforcement responsibility is obviously something less than was envisioned in the Senate bill and is one of the major differences between the two bills, there are a number of mitigating factors which makes the enforcement procedure satisfactory.

First, the Administrator is still authorized to act in cases of imminent and substantial danger without the waiting period and notification requirements. [Sec. 1431] As defined in the House reports on this bill, this authority is broad in scope and provides a necessary enforcement tool for the Administrator. As we understand from the language, it confers upon EPA the authority to act in any case where the danger to be realized will occur prior to the run of procedures necessary to stop the violation. In my view, a danger will be substantial in virtually all instances when the violation of a standard involves a public health threat and there are no other factors present which might make the risk acceptable.

In the context of the regular enforcement procedure, if a violation occurs or if public health threats are posed in the absence of a standard, and the dangers will become manifest prior to the run of the normal enforcement procedures, EPA would be authorized to take action under the emergency powers section of the legislation unless there are mitigating circumstances which would render the hazards acceptable.

PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER [Secs. 1421–1424]

The Senate bill contains merely a study of the problem of underground drinking water contamination without regulatory authority. This is not to say that the record of the Committee on Commerce in considering this legislation did not make a showing of a need for regulation. The reason the Committee on Commerce and the Senate did not include a regulatory provision in its bill was because of a desire to test the effectiveness of existing law in coping with the problem. Since that time, it has become apparent that existing law is not sufficient in this area and this has been thoroughly documented in the documents of the House of Representatives accompanying this legislation. In fact, an opinion of the acting Deputy General Counsel, which, No. 590, issued December 13, 1973, states that the regulation of deep well injection under the Federal Water Pollution Control Act is not authorized if not in conjunction with a discharge into navigable waters. Obviously, most if not all of the discharges into underground water sources may not reach navigable waters and the burden of proving so would be extremely difficult.

The provision gives primary enforcement authority for the regulation of underground injection to the States in accordance with EPA guidance regulations. In order that the production of oil and gas would not be unduly hampered, the injection of brine incidental with the production of oil and gas and the injection of materials to accomplish secondary and tertiary recovery of oil or natural gas could not be regulated unless such requirements are essential to assure that underground sources of drinking water will not be endangered.

LOAN GUARANTEES [Sec. 1444(d)]

The amendment contained a provision of the House bill which authorizes EPA to guarantee loans of up to $50,000 per drinking water system in order to comply with the requirements of this act. A total indebtedness of not to exceed $50 million would be authorized to be guaranteed by EPA within the next 2 years. In my view, while most systems will be able to finance their needed improvements through user charge fees, this financial assistance program is indeed welcome and should be utilized primarily by extremely small water supply systems.

CHLORINE ALLOCATION [Sec. 1441]

The Senate version of the Safe Drinking Water Act does not contain a provision of standby chlorine allocation authority as the chlorine shortage had not become apparent at the time the Senate bill had been passed. Subsequently, however, the Senate did pass S. 2846 which would provide such standby authority. As the House bill contains standby authority for the allocation of chlorine and other chemicals essential to water treatment, the proposed amendment contains the House provision.

Mr. President, the balance to be sought between the legitimate responsibility of the States to protect drinking water sources and Federal backup enforcement is a proper one. The States must assume primary responsibility for the implementation of the policies set out in this legislation. The Federal Government obviously cannot police each and every drinking water supply system in this country. It is hoped that a close working partnership will evolve through the programs authorized by this legislation. The task can get underway none too soon and I would urge the Senate to adopt this amendment so that we may get on with it.

Mr. President, I ask unanimous consent that a more lengthy discussion of the provisions of the proposed amendment be inserted in the Record at this point.

There being no objection, the material was ordered to be printed in the Record as follows:

NATIONAL DRINKING WATER REGULATION [Sec. 1412]

This section establishes the procedures by which national drinking water regulation will be established both initially and in the future. Two types of regulations are authorized.

First, national interim primary regulations will be developed rather quickly because existing efforts underway within EPA are designed to suffice for the interim regulations.

Second, revised national primary drinking water regulations will be developed following consultation with a committee of the National Academy of Sciences.

The standard for both national interim primary drinking water regulations is that health shall be protected to the extent feasible. Obviously, as the determinations vary upon the feasibility of a standard is governed not only by the cost of compliance but also with the extent of health risk, balancing between health risks on the one side and the cost of compliance on the other side must be weighed. Where health risks are great, higher costs may be incurred, perhaps even to the point of requiring alternative sources of drinking water.

This section also states that revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, or the means permit greater protection of the health of persons. The regulations are to be reviewed at least once every three years. As not only the changes in technology may force revisions in standards but increased knowledge with respect to health effects as well, this provision is not meant to be exclusive as far as the triggering mechanism for greater protection of the health of persons. Greater health risk could likewise trigger an amendment of the regulations.

ENFORCEMENT MECHANISMS [Secs. 1413 and 1414]

The enforcement mechanisms specified under the amendment envisions primary responsibility for enforcement of primary regulations will rest with the States.

Section 1413 specifies the criteria which will determine if a State will have primary enforcement responsibilities for the purposes of the Act. Each State must adopt regulations which are no less stringent than the federal regulations and must have adequate procedures for the enforcement of State regulations including monitoring and inspections.

The State must also keep such records and make such reports with respect to its activities that the Administrator may require and must not permit variances or exemptions under sections 1415 and 1416 in a manner contrary with those sections.

Finally, the State must have adopted and be able to implement an adequate plan for the provision of safe drinking water during emergency circumstances, including floods, earthquakes, and other natural and manmade disasters or other emergencies.

This section also contains direction for the manner in which State enforcement plans are to be approved or approval withdrawn. Such actions can only take place

after notifications by the States and following an opportunity for a public hearing on the determination.

Section 1414 specifies the instances in which failure by a State to assure enforcement of drinking water regulations will result in federal enforcement.

If EPA finds a violation of national primary standards or of a compliance schedule of the requirements imposed under the variances and exemptions procedures of **sections 1415** or **1416**, the Administrator is to notify the State and provide advice and assistance to the State to bring the system into compliance.

If the failure to comply extends beyond 30 days, the Administrator is to give public notice of the finding and request the State to report within 15 days after such notice of the steps being taken.

If the failure to comply extends beyond the sixtieth day following the initial notice and the State has failed to submit the required report or has submitted the report but the Administrator has determined that the State has abused its discretion in carrying out primary enforcement responsibility, the Administrator may commence a civil action in accordance with this section. In determining whether the State has abused its discretion, EPA must determine that the State has failed to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time and that the system has failed to assure by such 60th day the provision to alternative means of safe drinking water by the earliest feasible time. Again, the determination of what the earliest feasible time may be must take not only the cost of compliance into consideration but the extent of health threat as well. Thus, the ability of a public water supply system to finance improvements in its water supply system or to providing alternative means of providing safe drinking water must be tempered by the threat to health arising from such violation.

This section also requires that each owner or operator of a public water system shall give notice of failures to comply with national standards or the monitoring required by **section 1445(a)** and to give notice of violations of a variance or exemption compliance schedule under **section 1415** or **1416.** Notice would be furnished to the communications media by such supplier as soon as practicable after the discovery of the violation. It is anticipated that the Environmental Protection Agency will by regulation be more specific with respect to these requirements so that undue delay is not encountered and that the release of the information will be timely enough to be of value to consumers.

Persons who willfully violate the notice requirements or regulations issued thereunder shall be fined not more than $5,000. It is understood that a "fine" in this case and elsewhere in the bill refers to a criminal fine.

VARIANCES AND EXEMPTIONS [Secs. 1415 and 1416]

Sections 1415 and **1416** describe the two very similar procedures for granting variances and exemptions from the National Primary Drinking Water regulations.

The purpose of the variance procedure is to provide relief in those cases where raw water supply is of such poor quality that the system cannot meet the requirements. A variance may not be granted for such purposes unless the State has found that the variance will not result in an unreasonable risk to health.

A risk to health is to be presumed to be unreasonable unless there are costs involved which clearly exceed the health benefits to be derived.

Variances may also be granted from the requirements of the National Primary Drinking Water regulations for the use of a particular treatment technique if the raw water for such system is such quality as to make the treatment technique requirement unnecessary.

Exemptions granted under **section 1416** may be granted to a water system by a State is due to compelling factors the public water system is unable to comply with any national primary drinking water regulation. Again, before granting an exemption, the State must find that the system was in operation on the effective date of the requirement and that the granting of the exemption will not result in an unreasonable risk to health. Exemptions may only be granted through January 1, 1981, unless the system will become part of a regional system in which case the exemption may be granted until January 1, 1983.

The EPA Administrator is authorized to intervene in both the variance and the exemptions procedures if he finds that in a substantial number of instances, the State has abused its discretion in granting variances or exemptions. In deter-

90-224 O - 82 - 57

mining whether a State has abused its discretion in a substantial number of instances, the Administrator is to consider the number of persons who are affected by the variances or exemptions and if the requirements applicable to the granting of the variances or exemptions were complied with. Thus a single improperly granted variance or exemption could become the object of intervention if the variance or exemption affected a substantial number of persons. Similarly, as the health risk created by improperly granted variances or exemptions is increased, the number of affected persons sufficient to authorize intervention by the Administrator is decreased.

In the case of both variances and exemptions, the State must specify a compliance schedule including interim control measures which must achieve compliance in a manner which will not result in an unreasonable threat to public health. The compliance schedules would specify milestones along the schedule for compliance. The control measures specified would be designed to achieve those milestones.

The EPA Administrator is required to conduct a comprehensive review of the variances and exemptions granted under the two sections not later than 18 months after the effective date of the interim National Primary Drinking Water Regulations and shall conduct subsequent reviews to be completed within each 3 year period following the completion of the initial review. Before conducting any review the Administrator is to publish notice of a proposed review in the Federal Register. Such notice is to be as useful as possible to those who would comment upon his review and shall provide information respecting the location of data and of the opportunity to submit comments on the variances reviewed.

As stated in the report of the House Interstate and Foreign Commerce Committee, variances and exemptions are not to be granted for new facilities. As the House report implies, variances or exemptions should not for expansions of existing plants as well.

As such types of exemptions and variances are not authorized, EPA would not be expected to go through the normal review procedure for intervening in the variances and grants procedure. Rather, EPA would be authorized to initiate enforcement action directly.

Furthermore, it is understood that the existence of a variance or exemption procedure in no way affects any rights which a plaintiff in a common law or other suit may have against a polluter or other person responsible for poor water quality. In other words, if a supplier of water has brought an action against a polluter for polluting its water supply, the existence of a variance or exemption procedure does not relieve the polluter from any responsibilities or liabilities he may have in the absence of the variance or exemption procedure.

PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER [Secs. 1421–1424]

These sections of the proposed amendment establish the procedure whereby underground sources of drinking water will be protected through State enforcement efforts with Federal backup enforcement if the States don't act in a timely fashion.

EPA is to publish regulations for State underground programs within 180 days after enactment of this title. The regulations are to prohibit underground injection if such injection may result in the presence in underground water of any contaminant which may result in any drinking water system not complying with any national primary drinking water regulation. A number of other requirements are made as well.

A State would be primarily responsible for enforcement of the regulations if it submits an application to the Administrator and shows that it will implement programs meeting the requirements and will keep records and make such reports with respect to its activities as may be required by regulation.

Underground injection control will not apply to injection of brine or other fluids which are produced incidental to the production of oil or natural gas or any other underground injection for secondary or tertiary recovery of oil or gas unless such requirements are essential to assuring that underground sources of drinking water will not be endangered. Federal enforcement would be authorized under the same type of conditions described in section 1414 above.

Finally, these provisions provide for the designation of areas in which no new underground injection may be operated during the period between the date of designation and ending on the date when the State undertakes an underground

injection program. In any such area, no new underground injection may take place unless a permit is granted by the Administrator. The Administrator is authorized to designate such areas if the area has one aquifer which is the sole source of drinking water for the area and which if contaminated would present a significant public health hazard.

EMERGENCY POWERS [Sec. 1431]

This section authorized the Administrator to take action in situations when imminent and substantial endangerment to the health of persons is presented and appropriate State and local authorities have not acted to protect the health of such persons. The Administrator would be authorized to take such action as he may deem necessary in order to protect the health of such persons. He may issue such orders as may be necessary and may commence a civil action for appropriate relief including a restraining order for a permanent or temporary injunction. For reasons specified earlier, it is anticipated that the emergency power section of the proposed amendment would be useful to the Administrator in preventing public health threats.

ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR THE TREATMENT OF WATER [Sec. 1441]

This section provides for the mandatory allocation by the President of chlorine and other chemicals or substances used for the purpose of treating water in any public water system or any public treatment works.

Upon an application of any person who uses such chemicals for the treating of water in any public water supply, the Administrator would be authorized to make a finding of need for such chemicals. Following the issuance of a need by the Administrator, the President or his delegatee (presumably the Department of Commerce) shall issue an order requiring the mandatory provision of such chemicals to the person for which certification has been granted.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL [Sec. 1442]

This section authorizes the Administrator to conduct research, studies, and demonstrations related to contaminants in drinking water and the provision of a dependably safe supply of drinking water. In addition, the section authorizes the Administrator to collect and make available research and other technical information to persons having a need for such information and to make grants and enter into contracts for the purpose of developing, expanding, and carrying out programs for training persons for occupations involved with safe drinking water.

GRANTS FOR STATE PROGRAMS [Sec. 1443]

As in the Senate passed bill, the proposed amendment contains the authority for the Administrator to make grants to carry out public water system supervision programs. Many additional requirements will be placed on the states so that they may retain their primary enforcement authority and perform other duties and responsibilities under the Act. With the necessary amount of Federal backup enforcement of standards, it is incumbent upon Federal Government to aid the States in carrying out their programs in order to avoid pressures at the State level to turn over the drinking water program to the Federal Government. The provision of program grants to the States is designed to avert that possibility.

SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS [Sec. 1444]

This section authorizes the Administrator to make grants for the purpose of developing and demonstrating new technology. Grants shall not exceed two-thirds of the cost of the construction of the facility, and 75% of any other cost.

Priority is to be given for grants under this section where there are known potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology. Obviously, this is intended to apply to the existence of asbestos particles in the water supply of Duluth, Minnesota. The existence of such a project in Duluth, Minnesota, is not in any way intended to affect any responsi-

bilities which the Reserve Mining Company may have for the presence of asbestos in the drinking water of Duluth, Minnesota. Rather, it is proper that this type of special study be conducted and it is coincidental that this type of study will be conducted in Duluth, Minnesota.

RECORD AND INSPECTIONS [Sec. 1445]

This section contains record keeping provisions applicable to persons who are suppliers of water and makes provision for the inspection of facilities by the Administrator of the Environmental Protection Agency.

The amendment contains a modified provision of the House-passed bill which requires that before entry is made by the Administrator in any establishment, facility or other property of a supplier of water, the Administrator or his representative must notify the State agency with jurisdiction over the water supplier. Upon a showing by the State that such entry will be detrimental to the administration of the State's program, the Administrator shall take such showing into consideration in determining whether to make such entry. State agencies would be prohibited from notifying suppliers of water of the information supplied to the State in the notice from the Administrator. If the State agency so uses such information, notice is no longer required until the State has shown satisfactorily to the Administrator that it will no longer so use the information.

It is not intended that these requirements will present any great burden to the Administrator in carrying out the duties under this Act. For example, if an unforeseen inspection is necessary, a simple telegram to the State agency will satisfy the notification requirements. Furthermore, any consultation that might occur subsequent to such notification could well take place by telephone.

NATIONAL DRINKING WATER ADVISORY COUNCIL [Sec. 1446]

This section establishes a National Drinking Water Advisory Council for the purpose of advising the Administrator on his scientific duties under the Act. It is envisioned that the National Drinking Water Advisory Council will offer advice only on matters of science as opposed to matters of public policy. Because of the threat of carcinogenic materials in drinking water it is expected that experts on carcinogenosis (from the National Cancer Institute or elsewhere) will be represented at the Council.

The Council is to consist of 15 members, five of which shall be appointed from appropriate State and local agencies, five of which shall be appointed from representatives from private organizations, and five members of the general public.

It is expected that the Drinking Water Advisory Council will be balanced with respect to the various interests having to do with drinking water without the dominant influence of drinking water suppliers or State or local regulators.

FEDERAL AGENCIES [Sec. 1447]

Federal agencies would be required to comply with all national primary drinking water regulations and underground injection control programs. Any provision for waivers of compliance in the interest of national security are provided.

JUDICIAL REVIEW [Sec. 1448]

This section provides for judicial review of regulations drawn by the Administrator under the Act and certain activities of the States with respect to variances and exemptions and compliance schedules developed thereunder.

In general, the judicial review provisions follow closely those contained in the Clean Air Act.

CITIZENS CIVIL ACTION [Sec. 1449]

This section authorizes citizens' civil action against persons who are alleged to be in violation of any requirement under this title or against the Administrator where there is alleged his failure to perform mandatory duties under this title.

Actions may not be brought against a public water system during the 27 month period beginning on the first day of the month which this title is enacted.

Generally, the citizen suit provisions of this section are similar to those contained in the Clean Air Act, the Federal Water Pollution Control Act, and the Noise Control Act.

GENERAL PROVISIONS [Sec. 1450]

This section contains general information to effectuate the proper administration of the proposed amendment.

Importantly, it contains a prohibition against discharging or otherwise discriminating against any employee if such employee has involved himself in a proceeding under this title, testifies or is about to testify in any such proceeding or assist or participate or is about to assist or participate in any manner in a proceeding under this title. A grievance procedure before the Secretary of Labor is provided.

RURAL WATER SURVEY [Sec. 3]

This section requires the Administrator of EPA after consultation with the Secretary of Agriculture to conduct a survey of rural drinking water supplies with respect to quality, quantity, and availability. Such survey shall be completed within 18 months after the date of enactment and a final report submitted to the President for transmittal to the Congress within six months.

BOTTLED DRINKING WATER [Sec. 4]

This section requires the Secretary of Health, Education, and Welfare to conform his regulations with respect to bottled drinking water to those contained in the National Primary Drinking Water Standards under section 1412 of this Act, or to publish in the Federal Register his reasons for not making any such changes.

Mr. COTTON. Will the Senator yield for a question?

Mr. HART. Yes. I yield.

Mr. COTTON. The amendment the Senator is offering to the bill is, I understand from a previous conference with him—but I wish to get it into the Record—an amendment which was adopted when the Senate passed this bill earlier and which was proposed by the Senator from Alaska (Mr. Stevens), myself, and I believe, five other Senators who were concerned about small States. As I recall it would provide that no State would get less than 1 percent of the total sum of grants to States provided for in the bill, and thereby insure that small or less populated States received equitable treatment. **[Sec. 1443(a)]** Is that the amendment?

Mr. HART. Mr. President, the amendment includes the Stevens proposal which was supported by the Senator from New Hampshire and others. The requirement is that not less than 1 percent of the program grant money be available to each State.

Mr. COTTON. But, does the amendment you are offering also include other matters?

Mr. HART. It does. If a fuller discussion of those is required——

Mr. COTTON. I am not questioning the Senator. I have great confidence in the complete frankness and integrity of the Senator from Michigan. He has always, in my association with him, both in the committee and in the Senate, put the cards on the table and been completely frank. Are there any radical changes resulting from the amendment?

Mr. HART. Mr. President, grateful as I am to the Senator from New Hampshire for his kind remarks, I am now compelled to say that I am not sure exactly of every name in the House bill. I am assured by the staff of the Committee on Commerce that the amendment which I urge the Senate now to adopt is consistent with the position taken by the Senator, but does reflect a useful accommodation, incorporating much of the thought, effort, and wisdom that has been developed on the House side.

Mr. COTTON. I say to the Senator from Michigan that I now have before me a list of the several changes included in the Senator's amendment, which was handed to me by the committee's minority counsel. I say frankly that I see some that might prove a danger when this bill gets to the White House. But, at this time, I am not going to hold up consideration of our Labor-HEW conference report by going into extensive arguments upon these several changes.

I do not say that this bill could not be passed, or that the President will veto it, but certainly the changes proposed in the amendment may raise some opposition when it gets to the White House.

As I hurriedly glance over the changes made by this amendment, I, too, cannot see all the cards in the deck. Unfortunately, we sometimes have to legislate in this manner. It is a bill that has been pending for a long time. It is a bill the fundamental purpose of which is obviously highly desirable. It is a bill that would be pretty hard to vote against because of the skillful title—the Safe Drinking Water Act—attached to it.

After all, if one votes against safe drinking water, it is like voting against home and mother. I therefore, shall not be disposed at this time to hold up the procedure by going into these matters.

I think that, also playing with the cards on the table, one purpose of pushing this bill through like this—that is, by simply amending the House-passed substitute text and returning it to the other body—is that if the bill were delayed too long, it might be subject to a pocket veto. And the proponents of the bill want to avoid that prospect.

Mr. HART. That is correct.

Mr. COTTON. I can understand that attitude. I feel that if there is to be a veto of a bill, we should have a chance to act upon it. It is unfortunate when we have pocket vetoes at the end of a session.

I shall not oppose the amendment. However, I do feel that I should sound the warning which I stated earlier.

I deeply appreciate the fact that the Senator did include in the amendment the provision for a 1-percent minimum on grants to protect smaller States in which I was much interested on behalf of my own State.

Mr. HART. Mr. President——

Mr. MAGNUSON. Will the Senator yield for a half minute?

Mr. HART. Yes.

Mr. MAGNUSON. I wish to assure the Senator from Michigan that he has 52 cards in his deck, and there are no jokers.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan (Mr. Hart).

The motion was agreed to.

Mr. HART. I thank the Senator from New Hampshire.

[From the Congressional Record, June 22, 1973]

SENATE DEBATE ON S. 433

The Senate proceeded to consider the bill (S. 433) to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes, which had been reported from the Committee

on Commerce with amendments on page 1, after the enacting clause, strike out:

That this Act may be cited as the "Safe Drinking Water Act of 1973".

And, in lieu thereof, insert:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Safe Drinking Water Act of 1973".
(b) Table of contents.

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. National drinking water standards.
Sec. 5. Enforcement of standards.
Sec. 6. Imminent hazards.
Sec. 7. National Drinking Water Council.
Sec. 8. Research, technical assistance, information, training of personnel.
Sec. 9. Rural water survey.
Sec. 10. Special study and demonstration project grants.
Sec. 11. State drinking water supply programs.
Sec. 12. Regulations, procedure, and judicial review.
Sec. 13. Records.
Sec. 14. State regulations.
Sec. 15. Prohibited acts
Sec. 16. Penalties and remedies.
Sec. 17. Citizen civil action.
Sec. 18. Confidentiality.
Sec. 19. Federal faciilties.
Sec. 20. Relationship to other laws.
Sec. 21. Authorization for appropiations.

On page 2, line 1, strike out "Declaration of Policy" and insert "Findings"; in line 2, after the word "finds", insert "that"; in line 3, after "(1)", strike out "that"; in line 6, after the word "supply", strike out "the Nation" and insert "American people"; in line 8, after the word "or", insert "are not"; in line 12, after "(2)", strike out "that"; on page 3, line 1, after "(3)", strike out "that"; in the same line, after the word "shipment", insert "in interstate commerce"; in line 2, after the word "of", where it appears the first time, insert "such"; in line 4, after the word "contaminants", strike out "through interstate commerce"; in line 7, after "(4)", strike out "that"; in line 12, after "(5)", strike out "that"; in the same line, after the word "governments", strike out "are in"; at the beginning of line 13, strike out "of"; in the same line, after the word "assistance", strike out "in assuring" and insert "to assure"; in line 23, after the word "of", strike out "our" and insert "the"; on page 4, line 3, after "(1)", strike out "The term"; in line 5, after "(2)", strike out "The term"; at the beginning of line 7, strike out "(10)", and insert "(3)"; in the same line, after the amendment just stated, strike out "The term"; in line 8, after the word "consumption", insert "which"; at the beginning of line 10, strike out "(9)" and insert "(4)"; in the same line, after the amendment just stated, strike out "The term"; in line 13, after the word "to", strike out "man," and insert "human beings"; at the beginning of line 16, strike out "(8)" and insert "(5)"; in the same line, after the amendment just stated, strike out "The term"; at the beginning of line 18, strike out "(4)" and insert "(6)"; in the same line, after the amendment just stated, strike out "The term"; at the beginning of line 23, strike out "(5)" and insert "(7)"; on page 5, at the

beginning of line 3, strike out "(6)" and insert "(8)"; in the same line, after the amendment just stated, strike out "The term"; in line 5, after the word "water", strike out "(i)"; in line 7, after the word "or", where it appears the first time, strike out "(ii)"; at the beginning of line 22, strike out "(3)" and insert "(9)"; in the same line, after the amendment just stated, strike out "The term"; in the same line, after the word "means", insert "any"; on page 6, at the beginning of line 1, strike out "(7)" and insert "(10)"; in line 5, after the word "Welfare,", strike out "(A)" and insert "(1)"; in line 8, after the word "and", strike out "(B)" and insert "(2)"; at the beginning of line 16, strike out "as described under subsection (a) of this section,"; on page 7, line 14, after the word "water", strike out "standards, as described under subsection (a) of this section," and insert "standards"; in line 19, after the word "water", strike out "(A)"; in line 20, after the word "or", where it appears the second time, strike out "(B)"; and in line 24, strike out "take into consideration" and insert "consider".

On page 8, after the word "standards", insert a semicolon and the word "and"; in line 22, after the word "and", strike out "the" and insert "its"; in line 23, strike out "of such treatment"; and in line 24, after the word "lease" insert "once.".

On page 9, line 1, after the word "standard", insert "prescribed"; and at the end of line 1, strike out "subsection (a) of"; in line 3, strike out "subsection (c) of"; at the end of line 6, strike out "will be considered to have" and insert the word "has"; and in line 23, strike out "the" and insert "such"; and at the end of line 23, strike out "in which such water system is operating the" and insert "of such".

On page 10, at the end of line 3, insert "by such noncompliance"; in line 6, strike out "(i)" and insert "(A)"; at the beginning of line 8, strike out "(ii)" and insert "(B)"; in line 13, after the word "that", strike out "a" and insert "any"; at the end of line 18, strike out "(i)" and insert "(A)"; and in line 20, strike out "(ii)" and insert "(B)".

On page 11, in line 10, after the word "may", strike out "include an order requiring" and insert "require"; in line 11, after the word "in", strike out "the" and insert "such"; in line 15, after the word "order", strike out "issued"; and at the end of line 15, strike out "this subsection" and insert "subsection (b) of this section".

On page 12, line 15, strike out "board" and insert "Council".

On page 13, beginning in line 22, strike out "All proceedings and deliberations of such Council and their reports and reasons therefor shall be public record."

On page 14, at the beginning of line 3, strike out "(c)" and insert "(d)"; at the beginning of line 6, strike out "(d)" and insert "(e) While serving on the business of the Council"; in line 7, strike out "of such Council"; in line 8, strike out "while serving on business of the Council,"; in line 10, strike out the words "but" and "exceeding" and insert after "not" the words "to exceed"; in line 12, strike out the semicolon and the word "and"; and at the end of line 12, strike out "so"; at the end of line 13, strike out "business" and insert "business, members"; in line 14, strike out "they"; and at the end of line 15, strike out "by" and insert "under".

On page 15, at the end of line 1, strike out "man" and insert "human beings"; in line 6, after "of" insert "new and improved methods"; at the beginning of line 7, strike out "new and improved methods"; at the beginning of line 10, strike out "new and improved methods"; at the beginning of line 13, strike out "new and improved methods"; at the beginning of line 17, strike out "new and improved methods", and at the end of line 17, insert "the public with"; and in line 19, strike out "to the public".

On page 16, at the end of line 16, insert "to"; at the beginning of line 17, strike out "to"; and at the beginning of line 22, strike out "to".

On page 17, at the beginning of line 1, insert:

(c) (1) The Administrator shall conduct a study of the contamination of ground water resources in the United States which are utilized for the provision of drinking water. Such study shall include, but shall not be limited to, a survey of the nature, extent, and causes of such contamination and the extent to which existing State and Federal law controls such contamination.

(2) Not later than one year after the enactment of this Act, the Administrator shall submit the results of such study to the Congress along with such legislative recommendations as he may deem appropriate.

On page 17, at the beginning of line 12, strike out "(c)" and insert "(d) To carry out the provisions of this section,"; at the end of line 13, strike out "to carry out the provisions of this section" and insert "not to exceed"; in line 15, after the semicolon insert "not to exceed;" at the end of line 16, insert "not to exceed"; in line 23 after "into" insert "such"; and in line 25, strike out "or" and insert "off".

On page 18, at the beginning of line 17, insert "To carry out the provisions of this section,"; in line 18, strike out "to carry out the provisions of this section" and insert "not to exceed"; in line 20, after the semicolon, insert "not to exceed"; and at the end of line 21, insert "not to exceed".

On page 19, at the beginning of line 2, insert "assisting in the development and demonstration of any project which will"; at the beginning of line 4, strike out "assisting in the development and demonstration of any project which will"; at the beginning of line 9, strike out "assisting in the development and demonstration of any project which will"; in line 14, strike out "esthetic" and insert "aesthetic".

On page 20, at the end of line 12, strike out "(86 Stat. 832)" and insert "(33 U.S.C. 466)"; at the beginning of line 13, strike out "For the purposes of this section" and insert "To carry out the provisions of this section"; in line 15, after "appropriated" insert "not to exceed"; in line 16, after the semicolon, insert "not to exceed"; in line 17, after "and" insert "not to exceed"; in line 21, before "$3,000,000" insert "not to exceed"; in line 22, after the semicolon, insert "not to exceed"; and in line 23, after "and" insert "not to exceed".

On page 21, in line 3, strike out "pursuant to" and insert "for any fiscal year under"; in line 4, after "(a)" strike out "for any fiscal year" and insert "of this section"; at the end of line 6, insert "Such payments shall be made"; and at the end of line 11, insert:

No State shall receive less than 1 per centum of the annual appropriation for grants under this section: *Provided*, That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified under this subsection; And *provided further*, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

On page 22, at the end of line 3, insert "which is submitted by a State"; and at the end of line 5, strike out "which is submitted by the State,".

On page 23, in line 11, strike out "whereby" and insert "under which"; at the end of line 22, insert "to"; in line 23, after "such" insert "State"; and at the end of line 23, after the word "section" insert a period and strike out "to such State."

On page 24, after "(a)" insert "(1)"; in line 13, after the word "Act" insert a period and strike out "and to"; at the beginning of line 14, insert "He may"; at the beginning of line 15, strike out "(b)" and insert "(2)"; and in line 21, after "under" strike out "subsection (a)" and insert "paragraph (1) of this subsection".

On page 25, at the beginning of line 11, strike out "(c)" and insert "(3)"; at the beginning of line 15, strike out "(c)" and insert "(b)"; at the beginning of iine 19, strike out "(d)" and insert "(c)"; and in line 24, strike out "(a)".

On page 26, in line 1, strike out "(b)"; at the beginning of line 3, strike out "(f)" and insert "(2)"; in line 5, strike out "(1)"; in line 7, strike out "(2)"; in line 21, strike out "Every" and insert "Each"; and in line 22, after "section 4" insert "of this Act or each".

On page 27, line 3, after "other" insert "persons"; in line 4, strike out "4(c)" and insert "5"; in line 13, strike out the first "or"; in line 14, strike out "person" and insert "supplier of water or grantee"; in line 15, strike out "supplier or grantee" and insert "person"; in line 16, after "Act" insert a period and strike out "including for this purpose, inspection"; at the end of line 17, insert "Such officer or employee may inspect,"; in line 18, after the first comma, strike out "of"; in line 19, after the second comma, strike out "or in order to" and insert "and may"; in line 22, strike out "the" and insert "such" and after the word "supplier" insert "of water".

On page 28, in line 9, strike out "thereunder" and insert "issued under this Act." In line 15, strike out "pursuant to" and insert "under".

On page 29, line 2, strike out "5(d)" and insert "(b)"; in line 8, strike out "not willfully"; in line 9, after "Act" insert "other than willfully"; in line 14, strike out "he" and insert "the Administrator"; in line 19, strike out "Upon failure of" and insert "If"; and after the word "party" insert "fails"; at the beginning of line 20, strike out "the" and insert "such"; and in line 22, after "or" insert "may".

On page 30, after the word "Act" insert a period and strike out "and".

Mr. MAGNUSON. Mr. President, I am delighted that the Senate is today taking up S. 433, the Safe Drinking Water Act of 1973. It is seldom that a bill of this import comes before the Senate. While the Congress has paid a great deal of attention to protecting man and the environment from a variety of environmental insults, and rightly so, it has spent precious little time dealing with one of man's most basic needs, that of a safe supply of drinking water.

At hearings of the Committee on Commerce on May 31, the General Accounting Office reported that State programs to insure safe drinking water were woefully inadequate. GAO looked at the programs of six States as well as drinking water at Federal facilities, bottled water, and the interstate carrier program of EPA. In each case, problems were found which should not be allowed to continue.

In my own State of Washington, only seven of 127 systems checked would meet the standards now in effect for interstate carrier systems, and a number of other deficiencies were noted.

The results were not much better in the other States surveyed. Of 446 systems checked, only 60 were found to be in compliance with existing standards for interstate carriers. Similar deficiencies were found in the monitoring of drinking water and training of operators.

These latest results confirm a trend that has been developing in recent years. EPA's community water supply study has shown similar deficiencies as have other EPA audits of State programs. And Ralph Nader has termed drinking water as one of the top five consumer issues of the day. I am very pleased that we are finally getting around to dealing with a problem that demands our attention.

Mr. HART. Mr. President, the Safe Drinking Water Act of 1973 has near universal support. Following the introduction in the Senate of the original legislation in 1971 by the distinguished chairman of our committee, Senator Magnuson, and me, it has become increasingly apparent that a great deal more needs to be done with respect to drinking water.

Studies of the General Accounting Office, the Environmental Protection Agency, Ralph Nader, and others all point to the need for a strong Federal drinking water program. These studies have served. I think, to jolt us all out of a certain apathy that exists with respect to drinking water. All too frequently we assume that because it comes out of the tap it is safe and pure. Certainly the evidence that has been gathered to date discredits that assumption. While it would be overreacting to cry out in panic with respect to drinking water, it certainly is no mistake to assume that a great deal more needs to be done.

It is thus with great pleasure that I welcome the consideration of this bill today. That the bill has progressed this far is due in no small part to the efforts of the distinguished chairman of the Committee on Commerce, Senator Magnuson. Without his drive and commitment to the cause of clean drinking water it is my view that the legislation would not have progressed to this stage today. He deserves the thanks and praise of us all.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Safe Drinking Water Act of 1973".

(b) Table of contents.

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. National drinking water standards.
Sec. 5. Enforcement of standards.
Sec. 6. Imminent hazards.
Sec. 7. National Drinking Water Council.

Sec. 8. Research, technical assistance, information, training of personnel.
Sec. 9. Rural water survey.
Sec. 10. Special and demonstration project grants.
Sec. 11. State drinking supply programs.
Sec. 12. Regulations, procedure, and judicial review.
Sec. 13. Records.
Sec. 14. State regulations.
Sec. 15. Prohibited acts.
Sec. 16. Penalties and remedies.
Sec. 17. Citizen civil action.
Sec. 18. Confidentiality.
Sec. 19. Federal facilities.
Sec. 20. Relationship to other laws.
Sec. 21. Authorization to appropriations.

SEC. 2. (a) The Congress finds that—

(1) increasing quantities and types of chemicals, bacteria, viruses, toxic metals, and other contaminants are entering the public water systems that serve as sources which supply American people with water for drinking many of which are either not detected or are not removed by established water testing and treatment methods and which are consumed by or come in contact with the public, thereby presenting hazards or potential hazards to the public health;

(2) the public should be provided with adequate quantities of water that is safe for drinking and other human uses;

(3) the sale and shipment in interstate commerce of such contaminants of drinking water or products made through the use or production of such contaminants present a danger to the public from consuming water containing such contaminants;

(4) the Federal Government has the responsibility of establishing minimum national drinking water standards for all public water systems and to encourage State and local governments to establish equivalent or more stringent standards; and

(5) State and local governments need Federal assistance to assure the quality of water required for drinking and other human uses, and to that end the Federal Government should supply technical assistance, research and development information, monitoring, and testing information, assistance for the planning and implementation of comprehensive State drinking water programs, assistance for the development and demonstration of new or improved methods of making water safe for drinking, and assistance for the training of individuals involved in the management and safe operation of the Nation's public water supply systems.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "Agency" means the Environmental Protection Agency.

(3) "Bottled drinking water" means water for human consumption which is sold in a closed container.

(4) "Contaminant" means any physical, chemical, biological, radiological, or other substance or matter which may cause or transmit infectious disease, chemical poisoning, chronic disease, or other impairment to man, human beings or which may have any other deleterious effect on the public health.

(5) "Council" means the National Drinking Water Council, established under section 7 of this Act.

(6) "Municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law and having jurisdiction over the supply of water to the public, and an Indian tribe or an authorized Indian tribal organization.

(7) "Person" includes a State or political subdivision thereof, municipality, corporation, partnership, association, private or public nonprofit institution, or an individual.

(8) "Public water system" means—

(A) any system which provides drinking water, including bottled drinking water, to ten or more premises not owned or controlled by the

supplier of water or to forty or more individuals receiving such drinking water from a system not serving travelers in interstate commerce;

(B) any system which provides drinking water to carriers serving travelers in interstate commerce;

(C) any system which provides drinking water to facilities or establishments serving travelers in interstate commerce, except that the Administrator may by regulation exempt any such system or class of such systems if he determines that such exemption will not result in any unreasonable threat to public health; and

(D) any other system or class of systems which provides drinking water if the Administrator determines by regulation that such system or class of systems may pose an unreasonable threat to public health.

(9) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(10) "Supplier of water" means any person who controls, owns, or operates a public water system.

NATIONAL DRINKING WATER STANDARDS

SEC. 4. (a) The Administrator shall, after consultation with the Secretary of Health, Education, and Welfare, (1) issue initial proposed regulations prescribing national primary drinking water standards within one hundred and eighty days after the date of enactment of the Act and (2) issue initial proposed regulations prescribing national secondary drinking water standards within one hundred and eighty days after the date of such enactment. The Administrator shall specify in such proposed regulations the date on which such regulations shall take effect, which shall be as soon as is practicable.

(b) (1) National primary drinking water standards shall be drinking water standards and programs, the attainment and maintenance of which, are requisite to reasonably protect the public health, except that the Administration shall not prescribe the addition of any substance other than for the purpose of treating contaminants. Such standards—

(A) shall prescribe the maximum permissible levels for any contaminants which may exist in any public water system in the United States which may cause or transmit disease, chemical poisoning, or other impairments to man, allowing adequate margins of safety;

(B) may apply to any feature of the water supply system including, but not limited to, the treatment, storage, and distribution facilities;

(C) shall include requirements for the adequate operation, maintenance, surveillance, and monitoring of water quality adequate to assure a dependable supply of drinking water which meets the requirements of subparagraph (A); and

(D) shall include requirements for construction and site selection of public water system facilities to protect such facilities from floods and other natural disasters.

(2) National secondary drinking water standards shall specify the level of quality of drinking water the attainment and maintenance of which is requisite to reasonably assure aesthetically adequate drinking water. Such standards may apply to any constituent of drinking water which may affect the taste, odor, or appearance of such water or which may otherwise be necessary to assure aesthetically adequate drinking water.

(3) In establishing or revising standards under this section, the Administrator shall consider the view and recommendations of the Council established pursuant to section 7 of this Act.

(c) The Administrator shall publish simultaneously with the issuance of any proposed national primary or national secondary drinking water standard under this section—

(1) such criteria and information as, in his judgment, are necessary to accurately reflect the nature and extent of all identifiable effects on public health or welfare which may be expected from the presence of the contaminant which is the object of such proposed drinking water standards; and

(2) information and data on drinking water treatment methods and technology for the control of the contaminant which is the object of such proposed drinking water standard. Such information and data shall apply to each feature of the water supply system at which control of the contaminant may be exercised including, but not limited to, treatment, storage, and distribution facilities and

the adequate construction, maintenance, and operation thereof. Such information and data shall include the costs of such treatment and its effectiveness in controlling such contaminants.

(d) The Administrator shall, at least once every three years, review the adequacy of any national primary or secondary drinking water standard prescribed under this section and the criteria, information, and data published under this section. The Administrator shall publish his finding in the Federal Register.

ENFORCEMENT OF STANDARDS

SEC. 5. (a) For the purposes of this Act, a State has primary enforcement responsibility during any period for which the Administrator has approved a plan in accordance with section 11(d) of this Act and such plan is not being unreasonably deviated from to any significant extent by such State. If any such State has primary enforcement responsibility, the Administrator shall monitor the activities of such State only to the extent necessary to determine if such plan is being unreasonably deviated from to any significant extent. To the maximum extent practicable, any such monitoring shall not duplicate the activities of such State.

(b)(1) Whenever, on the basis of information available to him, the Administrator finds during a period in which a State has primary enforcement responsibility under subsection (a) of this section that any public water system in such State does not comply with any national primary drinking water standard he shall notify such State of such noncompliance. If the Administrator finds that such failure to comply with such standard extends beyond the thirtieth day after such notification he shall give public notice of such failure to comply with such standard and the extent of the dangers posed by such noncompliance and shall, if appropriate remedial action has not been taken to prevent any unreasonable endangerment to public health, (A) commence an action under section 16 of this Act, or request the Attorney General to do so, or (B) issue an order in accordance with subsection (d) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds during a period in which a State does not have primary enforcement responsibility under subsection (a) of this section, that any public water system in such State does not comply with any national primary drinking water standard he shall give public notice of such finding and the extent of the dangers posed, and shall, if appropriate remedial action will not be taken to prevent any unreasonable endangerment to public health, (A) commence an action under section 16 of this Act, or request the Attorney General to do so, or (B) issue an order in accordance with subsection (d) of this section.

(c) Whenever, on the basis of information available to him, the Administrator finds that any public water system in a State does not comply with any national secondary drinking water standards, he shall notify such State and request such State to take appropriate remedial action. If, after a reasonable time following such notification, the Administrator finds that such State has not taken remedial action, he shall give public notification of such finding in a manner suitable to inform users of such public water system of such violation.

(d)(1) Any order issued under subsection (b) of this section shall specify such relief as may be appropriate to prevent any unreasonable endangerment to public health. Such relief may require the person responsible for the violation which results in such order to cease such violation, to notify customers of such violation in accordance with section 11(d)(8) of this Act, or to furnish emergency supplies of drinking water.

(2) Any order issued under subsection (b) of this section shall be issued only after notice with section 554 of title 5, United States Code.

IMMINENT HAZARDS

SEC. 6. (a) An imminent hazard shall be considered to exist when there is reason to believe that a constituent of the drinking water of a public water system will result in a serious risk to health prior to the conclusion of an administrative hearing or other formal proceeding held pursuant to this Act and that a State or local authority or the supplier of water has not acted to eliminate such risk.

(b) If an imminent hazard exists, the Administrator may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to order such action as is necessary to eliminate the imminent hazard.

The Administrator shall simultaneously, if he has not previously done so, propose any regulation which might be necessary under section 4 of this Act, or he may commence an action under section 16 of this Act.

NATIONAL DRINKING WATER COUNCIL

SEC. 7. (a) There shall be established in the Environmental Protection Agency a National Drinking Water Council consisting of fifteen scientifically qualified members. The Administrator shall appoint members of the Council from a list of individuals recommended to him by the National Academy of Sciences or from such other sources as he deems advisable. Such Council shall include qualified scientists none of which shall have any economic interest in the supply of drinking water and not more than one-third of which shall have any responsibility for the regulation of drinking water. Each member of such Council shall hold office for a term of three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term;

(2) the terms of the members first taking office shall expire as follows—(i) five shall expire three years after the date of enactment of this Act, (ii) five shall expire two years after such date, and (iii) five shall expire one year after such date, as designated by the Administrator at the time of appointment; and

(3) the members of such Council shall be eligible for reappointment.

(b) The National Academy of Sciences shall maintain a list of qualified scientists to assist the Administrator in appointing members to such Council.

(c) Such Council shall advise, consult with, and make recommendations to the Administrator on matters relating to the scientific review of data, including engineering data, relating to the activities of the Agency under this Act. Such Council shall, upon the request of the Administrator, review any proposed action of the Administrator and shall report its views and reasons therefor in writing to the Administrator within a reasonable time, as specified by the Administrator. The report of the Council and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(e) While serving on the business of the Council, members who are not regular full-time employees of the United States shall be entitled to compensation at rates fixed by the Administrator, not to exceed the daily rate applicable at the time of such service to grade GS–18 of the Classified Civil Service, including traveling. While serving away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence as authorized under section 5701 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 8. (a) The Administrator shall conduct and promote the coordination of research, studies, and investigations and render financial, technical, and other assistance to appropriate public agencies, institutions, water supply utilities, and individuals in the conduct of research, studies, and investigations relating to the causes, diagnosis, treatment, control, and prevention of diseases and impairments of human beings resulting directly or indirectly from contaminants in drinking water, or to the provision of an adequate quality and quantity of safe drinking water. Such research, studies, or investigations may include, but shall not be limited to, the development of new and improved methods—

(1) to identify and measure the existence of contaminants in drinking water and to identify the source of such contaminants;

(2) to identify and measure the health effects of contaminants in drinking water;

(3) of treating water to prepare it for drinking, to improve the efficiency of water treatment and to remove contaminants from the water; and

(4) for providing the public with adequate quantities of safe water for drinking including improvements in water purification and distribution, and methods of assessing the health-related hazards of other characteristics of drinking water supplies.

(b) In carrying out this Act, the Administrator is authorized to—

(1) collect and make available information pertaining to research and investigations, with respect to providing adequate quality and quantity of safe drinking water together with appropriate recommendations in connection therewith;

(2) make available research facilities of the Agency to appropriate public agencies, institutions, water supply utilities, and individuals engaged in studies and research relating to water supply; and

(3) make grants to, and contracts with, any State or other public agency, educational institution, water supply utility, any other organization, and individuals in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed to—

(A) develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the management and safe operation aspects of providing safe drinking water; and

(B) train instructors and supervisory personnel to train or supervise persons in occupations involving the management and safe operation aspects of providing safe drinking water.

(c)(1) The Administrator shall conduct a study of the contamination of ground water resources in the United States which are utilized for the provision of drinking water. Such study shall include, but shall not be limited to, a survey of the nature, extent, and causes of such contamination and the extent to which existing State and Federal law controls such contamination.

(2) Not later than one year after the enactment of this Act, the Administrator shall submit the results of such study to the Congress along with such legislative recommendations as he may deem appropriate.

(d) To carry out the provisions of this section, there is hereby authorized to be appropriated not to exceed $14,000,000 for the fiscal year ending June 30, 1974; not to exceed $23,000,000 for the fiscal year ending June 30, 1975; and not to exceed $31,000,000 for the fiscal year ending June 30, 1976. Sums appropriated pursuant to this section shall remain available for obligation through the close of the following fiscal year.

RURAL WATER SURVEY

SEC. 9. (a) The Administrator shall (after consultation with the Secretary of Agriculture and the several States) enter into such arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having inadequate access to or no access to drinking water; and

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard.

(b) Such survey shall be completed within two years of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Congress. Such report shall include recommendations for improving rural water supplies.

(c) To carry out the provisions of this section, there is hereby authorized to be appropriated not to exceed $1,000,000 for the fiscal year ending June 30, 1974; not to exceed $2,000,000 for the fiscal year ending June 30, 1975; and not to exceed $1,000,000 for the fiscal year ending June 30, 1976.

SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS

SEC. 10. (a) The Administrator is authorized to make grants to appropriate public and private agencies, institutions, water supply utilities, and individuals for the purposes of assisting in the development and demonstration of any project which will—

(1) demonstrate a new or improved method, approach, or technology for providing a safe supply of drinking water to the public in both urban and rural areas of the Nation; and

(2) investigate and demonstrate the health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and related uses or which will demonstrate processes and methods for the safe and *asthetic* preparation of such waters.

(b) Grants made by the Administrator under this section shall not—

(1) exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator;

(2) be made for any project involving the construction or modification of any facility in any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water; and

(3) be made for any project unless the Administrator determines, after consulting the Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking or other useful purposes.

(c) Nothing in this section shall affect the authority of the Administrator to make grants for Alaska village safe water and pollution elimination or control demonstration projects under section 113 of the Federal Water Pollution Control Act (33 U.S.C. 466).

(d) To carry out the provisions of this section, there is hereby authorized to be appropriated not to exceed $2,000,000 for the fiscal year ending June 30, 1974; not to exceed $5,000,000 for the fiscal year ending June 30, 1975; and not to exceed $10,000,000 for the fiscal year ending June 30, 1976.

STATE DRINKING WATER SUPPLY PROGRAMS

SEC. 11. (a) There is hereby authorized to be appropriated not to exceed $8,000,000 for the fiscal year ending June 30, 1974; not to exceed $15,000,000 for the fiscal year ending June 30, 1975; and not to exceed $21,300,000 for the fiscal year ending June 30, 1976, for grants to the States to assist them in establishing and maintaining adequate programs to assure the safety of public drinking water.

(b) From the sums available for any fiscal year under subsection (a) of this section the Administrator shall from time to time make payments to the several States in accordance with regulations. Such payments shall be made on the basis of (1) the population, (2) the financial needs, and (3) the extent of the actual or potential water supply problem, except that any such payment shall not be greater than an amount equal to two-thirds of the cost of any such State program. No State shall receive less than 1 per centum of the annual appropriation for grants under this section: *Provided*, That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified under this subsection: And provided further, That such percentage shall not apply to grants alloted to Guam, American Samoa, or the Virgin Islands.

(c) The Administrator shall pay to each State an amount equal to its allotment under subsection (b) for the purposes of defraying the cost of carrying out its State plan approved under subsection (d) of this section, including the cost of training personnel for State and local public water supply work and the cost of administering the State plan. Such payments shall not be made if such plan has not been approved by the Administrator.

(d) The Administrator shall approve any plan which is submitted by a State for establishing and maintaining a program to assure the safety of public drinking water if such plan—

(1) provides for the formal adoption by the State of drinking water standards which are no less stringent than the national primary drinking water standards prescribed under section 4 of this Act;

(2) provides for the adoption by the State of appropriate regulations and procedures for the implementation and enforcement of such State standards;

(3) provides for administration or for the supervision of administration of the plan by the State agency charged with the responsibility for the safety of drinking water;

(4) sets forth the plans, policies, and procedures to be followed in carrying out the State plan;

(5) provides for such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan;

90-224 O - 82 - 58

(6) provides that the appropriate State agency will make annual reports, or such more frequent reports as the Administrator may reasonably require, in such form and containing such information as he may require;

(7) provides for the establishment of an emergency plan of action for each public water system within the State for use in case of an emergency affecting the safety of the treated drinking water or the effective operation of the treatment facility, including provision for emergency reserves or alternate sources of water suitable for drinking and culinary purposes; and

(8) provides for the implementation of a standards violation notification procedure, under which any supplier of water found to be in violation of any Federal or State drinking water standard will be required to so notify its customers, in transmitting water bills or through other appropriate means, of the nature and extent and possible health effects of such violation and the remedial measures which will be taken to correct the problem.

(e) If a State plan has been approved, and the Administrator subsequently finds that such plan is being unreasonably deviated from to any significant extent, the Administrator is authorized to terminate any further payments to such State under this section.

(f) Any approval or disapproval of a State plan under subsection (d) of this section, or termination of payments under subsection (e) of this section, shall be in accordance with and subject to the procedures and judicial review provisions of section 12 of this Act.

(g) For the purposes of determining whether any State plan approved under subsection (d) of this section is being unreasonably deviated from to any significant extent, the Administrator shall cause to be made, at least one every three years, a complete audit of such State's water supply programs.

REGULATIONS, PROCEDURES, AND JUDICIAL REVIEW

SEC. 12. (a)(1) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act. He may amend or rescind such regulations at any time.

(2) The Administrator shall publish any regulations proposed under this Act, or proposals to amend or rescind such regulations, and his justification therefor in the Federal Register at least sixty days prior to the time when such regulations shall become final. The Administrator shall also publish in the Federal Register a notice of all petitions received under paragraph (1) of this subsection and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data, views, or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(3) Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and the relationship of such findings to the regulations issued.

(b) Except as expressly modified by the provisions of this section, the provisions of chapter 5, of title 5 of the United States Code, shall apply to proceedings conducted by the Administrator under this Act.

(c)(1) Any judicial review of final regulations promulgated under this Act shall be in accordance with section 701–706 of title 5, United States Code, except that with respect to relief pending review, no stay of an Agency action may be granted unless the reviewing court determines that the party seeking such stay is likely to prevail on the merits in the review proceeding and will suffer irreparable harm pending such proceeding.

(2) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either that the information is material and was not available at the time of the proceeding before the Administrator or that failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms

and conditions asthe court may deem proper. The Administrator may modify his finding as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

RECORDS

SEC. 13. (a) Each supplier of water who is subject to a standard prescribed under section 4 of this Act or each grantee shall establish and maintain such records, make such reports, and provide such information as the Administrator shall reasonably require to assist him in establishing standards and regulations under this Act and in determining whether such person has acted or is acting in compliance with this Act. Suppliers of water and other person subject to State enforcement under section 5 of this Act shall submit such reports and make available such records and information to the appropriate State agency for inclusion in State reports required under section 11(d)(6) of this Act.

(b) Any officer or employee duly designated by the Administrator, upon presenting appropriate credentials and a written notice of inspection authority to any supplier of water subject to a standard prescribed under section 4 of this Act or any grantee (or person in charge of any of its property), is authorized to enter any establishment, facility, or other property of such supplier of water or grantee in order to determine whether such person has acted or is acting in compliance with this Act. Such officer or employee may inspect, at reasonable times, records, files, papers, processes, controls, and facilities, and may test any feature of a public water system, including its raw water source. Each inspection shall be commenced and completed with reasonable promptness and such supplier of water or grantee notified of the results of such inspection.

(c) For purposes of this section, the term "grantee" means any person who receives financial assistance under this Act.

STATE REGULATIONS

SEC. 14. Nothing in this Act shall affect the authority of any State or local government to establish drinking water standards or to make other requirements for purposes similar to those contained in this Act, except that any such standards or requirements shall not be less stringent than the requirements of this Act or regulations issued under this Act.

PROHIBITED ACTS

SEC. 15. The following acts and the causing thereof are prohibited:

(1) the failure to comply with any final regulation issued by the Administrator under this Act, except that noncompliance with a national secondary drinking water standard under section 4(b) of this Act is not prohibited:

(2) the failure or refusal to establish and maintain records, make reports, and provide information as required under section 13(a) of this Act:

(3) the refusal to allow entry and inspection of establishments, facilities, or other property pursuant to section 13(b) of this Act: or

(4) the failure of any person to comply with any order issued under section (b) of this Act.

PENALTIES AND REMEDIES

SEC. 16. (a) Any person willfully violating section 15 of this Act shall on conviction be fined not more than $15,000 for each day of violation or imprisoned for not more than one year, or both.

(b)(1) Any person violating section 15 of this Act other than willfully shall be liable to the United States for a civil penalty of a sum which is not more than $10,000 for each day of violation, to be assessed by the Administrator after notice and opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after the Administrator has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

(2) If the offending party fails to pay such civil penalty, the Administrator may commence an action in an appropriate district court of the United States for such relief as may be appropriate or may request the Attorney General to commence such an action.

(c) The Attorney General or the Administrator may bring an action in the appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of section 15 of this Act. The district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

CITIZEN CIVIL ACTION

SEC. 17. (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any national primary drinking water standard promulgated under section 4 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to any alleged violator of such standard and (iii) to the State in which the violation occurs,

(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such standard, but in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any national primary drinking water standard or to seek any other relief.

CONFIDENTIALITY

SEC. 18. (a) Copies of (1) any communications, documents, reports, or other information received or sent by the Administrator or (2) the results of any drinking water quality analyses or other information pertaining to drinking water quality possessed by the Administrator shall be made available to the public upon identifiable request, and at reasonable cost unless such information may not be publicly released under the terms of subsection (b) of this section.

(b)(1) The Administrator or any officer or employee of the Agency or the Council established under section 7 of this Act shall not disclose any information which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed by the Administrator—

(A) to other Federal Government departments, agencies, and officials for official use, upon request, and with reasonable need for such information;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

(D) if relevant in any proceeding under this Act, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

(E) to the public in order to protect their health, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the person to which the information appertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health).

In no event shall the names or other means of identification of injured persons be made public without their express written consent.

(2) Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter presently under consideration in a rulemaking or adjudicative proceeding by the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is communication entitled to protection under subsection (b) of this section.

FEDERAL FACILITIES

SEC. 19. (a) Except as provided for in subsection (b) of this section, each Federal department or agency having jurisdiction over any building, installation, or other property, which is or will be served by a federally owned or maintained public water system, shall comply with all national primary drinking water standards prescribed under section 4 of this Act and shall, to the maximum extent practicable comply with any national secondary drinking water standard prescribed under such section.

(b) The Administrator may waive compliance with the requirements of subsection (a) of this section, in whole or in part, upon receiving information from the Secretary of Defense or from the Secretary of the Department in which the United States Coast Guard is operating that such waiver is in the interest of national security. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for good cause shown by the Secretary of Defense or by the Secretary of the Department in which the United States Coast Guard is operating, in the interest of national security, unless the Administrator has been requested by the applicable Secretary to omit such publication because it would be contrary to the interests of national security.

RELATIONSHIP TO OTHER LAWS

SEC. 20. The authority of the Secretary of Health, Education, and Welfare to regulate bottled drinking water under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, et seq.) shall be repealed on the effective date of initial national primary drinking water standards pertaining to bottled drinking water under section 4 of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 21. In addition to the authorizations for appropriations contained in sections 8, 9, 10, and 11 of this Act, there are hereby authorized to be appropriated such sums as may be necessary, but not to exceed $8,000,000, $11,000,000, and $13,000,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of this Act.

ADMINISTRATION TESTIMONY AT SENATE HEARING

SAFE DRINKING WATER ACT OF 1973

HEARING

BEFORE THE

SUBCOMMITTEE ON ENVIRONMENT

OF THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

S. 433

TO ASSURE THAT THE PUBLIC IS PROVIDED WITH AN ADEQUATE QUANTITY OF SAFE DRINKING WATER, AND FOR OTHER PURPOSES

S. 1735

TO ASSURE THAT THE PUBLIC IS PROVIDED WITH SAFE DRINKING WATER, AND FOR OTHER PURPOSES

MAY 31, 1973

Serial No. 93–39

Printed for the use of the Committee on Commerce

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1973

SAFE DRINKING WATER ACT OF 1973

FRIDAY, MAY 31, 1973

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON THE ENVIRONMENT,
Washington, D.C.

The subcommittee met at 10:15 in room 1318, New Senate Office Building, Hon. Philip A. Hart (chairman of the subcommittee) presiding.

* * * * * * *

AFTERNOON SESSION

Senator STEVENS [presiding]. Mr. Fri, we are ready to proceed. Proceed in any manner you wish. We are happy to have you here this afternoon.

STATEMENT OF HON. ROBERT W. FRI, ACTING ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY; ACCOMPANIED BY JAMES H. McDERMOTT, CHIEF, WATER SUPPLY PROGRAM

Mr. FRI. Thank you very much, Mr. Chairman.

I am accompanied by Mr. James H. McDermott who is the head of our water supply program for EPA.

I have a prepared statement which is relatively short. If it is all right with you, I will read it into the record.

Senator STEVENS. Very well.

Mr. FRI. Mr. Chairman, I am pleased to appear before this distinguished committee to testify in favor of the Administration's Safe Drinking Water Act of 1973, S. 1735.

You will recall that we appeared before this committee in March of 1972. At that time, although we had not submitted to you an administration bill, we indicated that our ongoing staff studies and investigations had identified several critical elements required in drinking water legislation, noting that the solution to identifying problems would not "In our opinion be effected by changing the roles of federal or state governments * * * but by assuring the enforcement of national standards and by strengthening State and local programs."

Our studies and investigations have now advanced to the stage where the President has proposed to the Congress the Safe Drinking Water Act of 1973.

The comprehensive program specified in our proposal is based in large measure on an evaluation of our experience with the interstate carrier water supply program, which has been implemented over the last 60 years by a local, State, Federal partnership involving definitive responsibilities for all levels of Government.

Further, the proposed bill has drawn heavily from our experience as reported in our community water supply study of 1970, and a series of State program evaluations that we have conducted since that time.

The Federal Government's program for protection of drinking water has traditionally been addressed to responsibility for preventing the spread of communicable diseases in interstate commerce, pursuant to the Public Health Service Act.

Under this Act EPA promulgates and assists in the enforcement of regulations which preclude interstate carriers from utilizing water from sources which have not complied with certain required drinking water standards.

This enforcement authority applies to about 650 out of an estimated 35,000 to 40,000 public water supply systems serving both large cities and small towns and applies only as such water is used by interstate carriers.

Under that authority, drinking water standards have been established. These standards, last revised in 1962, contain limits concerning physical characteristics and chemical and biological constituents affecting the quality of the water.

The standards establish limits on levels of coliform bacteria, arsenic, cadmium, chromium, cyanide, lead, fluoride, selenium, and silver, which can clearly affect the health of the user.

Interstate carriers do not use water drawn from systems which do not meet these requirements until the deficiency is corrected.

In addition to these requirements, the standards recommend limits on certain physical characteristics and chemical constituents of drinking water which are primarily of aesthetic concern in that they import undesirable taste and odors to the water, cause discoloration of plumbing fixtures, and the like.

Although the jurisdiction of our existing program is limited to those water supply systems serving interstate carriers, most large cities and State do use our standards as their basis for regulating the quality of their drinking water supplies.

Notwithstanding the wide acceptance of these standards, the community water supply study, a field inspection and evaluation of 969 community water systems conducted in 1970 by our Water Supply Division, then in the Department of Health, Education, and Welfare, indicated that 5.4 percent of the population served by the 969 systems was being served drinking water that fails to meet one or more of the existing standards set by the Federal Government.

Extrapolating the results of this study to the Nation as a whole, we can estimate that some 8 million people served by some 5,000 systems receive water that fails to attain at least one of the Federal standards. In the majority of cases, these deficient systems are smaller systems serving smaller communities.

In relation to this, national health figures indicated that during the 10-year period from 1960–70, there were at least 128 known outbreaks of disease or poisoning attributed to drinking water.

Deficiencies among the Nation's drinking water supply systems and surveillance programs have been well documented during the previous hearings. Additional evidence, revealed since the March 1972 hearings, is contained in our evaluation of water supply systems and programs in three States.

This evidence confirms our findings in other States, much of which has already been presented to this committee.

These later evaluations indicate that in these three States where water supply systems were surveyed—

About 25 percent of the public water systems surveyed did not meet the bacteriological standards during one or more of the past 12 months;

About 50 percent of the systems did not meet bacteriological monitoring standards;

About 50 percent of the systems were judged to need additional treatment facilities; and

All these States studied were judged as needing to increase their water supply budget in order to provide an adequate program.

We currently have evaluations under way or in the planning stages for nine other States.

I would like to emphasize, Mr. Chairman, that the State program evaluations to which I have just referred were initiated at the request of the States for technical assistance.

In addition to the information of national significance which we have gathered we have sought to make recommendations to solve immediate and potential local and State water supply problems.

I might add we have gotten quite good response from the State surveys.

Now, Mr. Chairman, given this body of experience, the administration has developed and has sent to the Congress a piece of legislation which we believe will provide an effective solution to the problem of providing safe drinking water for the public.

Senator STEVENS. Mr. Fri, if we can go off the record, we didn't hear the first vote buzzer, so I have just five minutes to make this vote. I will be back in just a few minutes.

Mr. FRI. All right.

[Recess.]

Senator STEVENS. Thank you for your consideration, Mr. Fri.

Mr. FRI. We were about to discuss the Safe Drinking Water Act which the administration has proposed. Let me pick up there.

Now, Mr. Chairman, given this body of experience, the administration has developed and has sent to the Congress a piece of legislation which we believe will provide an effective solution to the problem of providing safe drinking water for the public.

The legislation is premised on what we believe to be an essential identification of Federal, State, and local responsibilities. The major responsibilities for carrying out the day-to-day work to assure safe drinking water is properly at the local level.

The bill is also premised on the conviction that the public has the right to know the quality of its drinking water and that an informed public is the best guardian of its own health and safety. The bill would capitalize on that conviction by assuring maximum public notification of standards violations.

Under the President's bill the EPA Administrator would establish national primary drinking water standards. These would be addressed to all health-related limits for constituents of drinking water and would include requirements for monitoring and reporting of water quality.

We believe that the establishment of these primary standards should be a Federal responsibility. Standards for health protection do not vary with locality. It is the Federal Government which already has and can best bring together the most qualified pool of scientific and technical aspects involved. There is no point in obliging the States to duplicate this effort.

The EPA Administrator would also be authorized to issue recommended national secondary drinking water standards for adoption by State and local governments at their option.

These recommended standards would apply to constituents of drinking water which may affect matters such as the taste, odor, or appearance of drinking water, but is not a health hazard.

I emphasize that these nonhealth-related standards would not be mandatory but would be a matter of state or local preference.

I would also like to emphasize another provision of the standard-setting authority.

When the Administrator issues primary or recommended secondary standards he is also required to publish, among other matters, information and data relating to the treatment, operation, maintenance, and construction of the water supply facilities.

While treatment, operation, maintenance and construction requirements are not made mandatory under the bill, information as to such must be published when standards are issued and would, therefore, be available for use by and guidance of suppliers of drinking water in their operations.

That information could also be readily converted into regulations by State and local governments.

This feature of the bill, while insuring that the health limits for constituents in drinking water are not exceeded, leaves it up to the State and local agencies to determine how they will control the related matters of treatment, operation, maintenance and construction to meet those standards.

Now, moving on to the enforcement aspects of the administration's bill, we believe the enforcement provisions will be highly effective, yet avoid cumbersome regulatory or judicial procedures and require little direct Federal involvement.

The bill provides that the States shall have primary enforcement authority with regard to the drinking water standards and that EPA will monitor activities of the States and public water supply systems only to the extent necessary to determine if there is an adequate program to enforce the primary standards.

Whenever the water delivered by a water supply system is not in compliance with the primary drinking water standards, the supplier of the water must notify its users, appropriate state agencies, and EPA of the noncompliance and the possible health effects of such noncompliance.

This provision, which I consider crucial to the administration bill, coupled with a citizen suit provision will, we believe, make enforcement actions by regulatory agencies largely unnecessary.

We believe that suppliers of drinking water, who in almost all cases charge for their product, could not withstand the public pressure if their customers have notice that they are receiving water not in compliance with mandatory health standards.

The possibility of a citizen suit provides an additional incentive to suppliers to maintain compliance with the standards.

As indicated earlier, EPA's enforcement authority is concentrated on areas where a Federal role can be most effective.

In the case of an imminent health hazard, EPA could bring an immediate enforcement action. That is clearly an area where direct and swift Federal action may be the best answer to the problem.

Federal enforcement could also be invoked where the supplier of water does not comply with the notification requirements, the monitoring and reporting requirements, or where there is a refusal to permit entry and inspection of facilities.

Since the approach taken in this bill either stands or falls on an effective public notification system, we feel it necessary to emphasize the importance of monitoring, reporting and notification requirements upon which a public notification system rests.

We would, as I have said, therefore make these requirements the subject of Federal enforcement.

The Federal enforcement authority includes both civil and criminal penalties and injunctive relief.

Perhaps of greater enforcement significance is the provision for citizen suits.

The President's bill has a broad authority for the conduct of research, studies, and investigations, and for financial, technical and other assistance to be made available to appropriate agencies, institutions and individuals with regard to these activities.

We believe that this authority is necessary to continue to provide the best scientific base necessary for the establishment of standards and the provision of information and advice to States and localities.

Mr. Chairman, I turn now to S. 433, safe drinking water legislation, which has the same objective as the President's bill.

We are, of course, in accord with the objective of S. 433 and with many of its specific provisions. But I want to comment on several of its provisions with which we differ in the approach taken.

With regard to the scope of the mandatory primary drinking water standards for health, S. 433 is considerably broader than the administration's bill.

Standards under S. 433 include, in addition to limits on constituents of water, operation and maintenance requirements.

As I indicated to you in describing S. 1735, the administration's bill, that while operation and maintenance standards are useful to insure safe and adequate water supplies, we recommend that such standards be left to State and local determination.

Variances in the character of treatment systems around the country make mandatory Federal standards for operation and maintenance inappropriate.

Variances may exist due to such factors as climate, hydrology, geography, demographic patterns, institutional structures and financing mechanisms.

We firmly believe that the Federal publication of operation and maintenance guidelines, rather than mandatory uniform standards, for adoption by State and local agencies would be the most effective and efficient use of resources.

We also prefer the enforcement provisions of S. 1735 to those in S. 433.

Under S. 433, if the primary standards are not being complied with and after a period of notification if appropriate action is not being taken, the Administrator must take steps to enforce the primary standards.

Under the approach we outlined in the administration bill, violation of water constituent health standards triggers the notification requirements as well as State and citizen enforcement.

We believe a system based upon the consumers getting the facts about their drinking water can work more quickly, smoothly and

effectively. We, therefore, see no reason to invoke the more extensive Federal enforcement authority set out under S. 433.

We also recommend against enactment of the State program grant provisions of S. 433.

We believe that the safe drinking water program as contemplated by either of these bills will stimulate State and local interest and desire to improve State and local funding of such programs.

The costs of treatment, testing, and monitoring can and should be derived from the users of the water supply. We believe that an adequate safe drinking water program can and should be funded from State and local sources.

Mr. Chairman, for the reasons I have outlined, we recommend enactment of the administration's Safe Drinking Water Act.

We appreciate the interest and leadership this committee has shown to this legislation during the last Congress and the early attention you are giving it in the 93d Congress.

My staff and I will be pleased to work with your committee on this important legislation.

I will be pleased to respond to any questions you may have.

Senator STEVENS. Thank you very much.

I understand that the committee has made a request from EPA for an analysis of what the amendment that I added to the bill last year would mean. The amendment provides that no State would receive less than 1 percent of the funds involved.

Have you taken a position on that amendment yet?

Mr. FRI. Yes, we have. We have some detailed numbers which I believe are on their way up to you, Mr. Chairman.

Our position on that amendment, first of all, of course, is that we do not believe that State program grants are a desirable feature of the bill. If there were State program grants in the bill then we have no particular objection to the 1 percent requirement, provided it is not an altogether inflexible requirement.

We have had a good deal of experience handing out State program grants under our air and water programs with a variety of different needs and using various concepts and formula, and while I recognize the equity in the amendment that has been suggested, there are times when you are really overfunding what a State truly needs to have in order to run its program with a 1 percent rule.

Senator STEVENS. I understand that. We tried to provide flexibility in the amendment last Congress. It appears to us, if there are to be State grants, the costs to the individual States to maintain the type of programs that you believe should be a matter of State and local determination, and which should be funded by State and local funds, would be about the same without regard to the size of the State, or its population. If a State sets up monitoring programs such as you have described, it is going to cost about the same amount to provide those programs, regardless of regard to population, is this not so?

Mr. FRI. Well, we have tried to gather some data from the States early this year as to the cost of running a State program on a per system cost, isn't it?

Mr. MCDERMOTT. Yes—Per system cost.

Mr. FRI. Per system cost runs from around $200 in some of the smaller States to up to $2,000 a system in New York, which I believe is the one with an estimate that high.

Now, we have also had some experience with the variation one gets in asking States for estimates of cost without any really strict groundrules.

Senator STEVENS. I hope you won't get tied to some of the responses you are going to get in my State, for instance, we have not had this obligation as yet. The cost differential for testing systems in Adak in the Aleutian chain, which, in case you don't know, is out in the Aleutian chain, or in Point Barrow, or down in Ketchikan, is equivalent to the difference between testing systems in San Francisco, Detroit, and Jacksonville or New Orleans.

When the Government deals with variations in such administrative costs, I think all too often the administration looks at the personnel costs and normal communications costs. It does not look at the impact of transportation, that is cost of travel necessary to have an effective enforcement program.

That is why I moved for that 1 percent floor last year. I don't think Alaska could do it even with 1 percent.

Mr. FRI. We did try in this survey to break down the components of the program and I give you that variation, a 10-fold variation not because I necessarily believe that is right but because I suspect when one went in and shook down the estimates they would come closer together.

But I don't think it would come down to an absolutely even, identical per system cost in every State. There are significant variations. In your State you have certain special problems, in other States they have different kinds of problems.

And while as I say in response to your earlier question with regard to the 1 percent rule—I think I understand the objective and the equity behind it, we do run into cases which I think would in part require us to deviate for good cause but if there is adequate flexibility, it would probably not cause us an undue administrative burden.

Of course given our position on State grants, that is a somewhat hypothetical response.

Senator STEVENS. Well, it is perhaps a small matter as far as the total program is concerned. But if the Congress gave all Senators the same amount of money to travel, it would cost my colleague from Maryland, $6, but it costs me $600 to go home.

Now that is the principle we are looking for. You must look into what makes up the administrative costs in each State and not just say that each State gets a hundred thousand dollars. It is just not appropriate in these circumstances.

We were putting a floor of not less than 1 percent into the bill. It may be that a state has to have more. But we also have given you some discretion in that decision. Tell me, why did you include in the air and water pollution control programs provisions for State grants but not include them in your safe drinking water bill?

Mr. FRI. Well, I think we have a fundamentally different situation in water supply in the water supply business, you have typi-

cally a local utility supplying a product for which it charges that has a direct and immediate bearing on public health.

Now is the air pollution case, you have a situation where you don't have an agency supplying air pollution. Although air pollution does have an effect on public health, the agency that does it is really in a sense removed from your home; it is not connected to your home by a water pipe. The water pollution control program is connected to your home in part by a water pipe and a sewage pipe, although it deals substantially with industry as well.

But it is not in the typical case supplying a service that has an immediate impact on public health. It certainly has public health implications. I would argue from a conceptual point of view that there is little to be gained, except the stimulation of the local programs, by handing out program grants in air and water. And I think that is a value in air and water.

But in water supply we have got the situation where you do have a supplier supplying a product directly to you that affects the health of you and your family, and a failure to meet drinking water standards would have a much more immediate impact on public opinion, particularly with the notification provisions we have suggested in the administration's bill.

And therefore, I think the stimulus to adequate funding of public drinking water supplies is going to be much higher than we have in the air and water pollution case. And our experience in these State surveys that we have conducted, having now finished four—with several more underway—would tend to bear that out.

We have, as I mentioned in my testimony, in every case determined that the water supply program is underfunded. In all but one of those cases there has resulted, without great fanfare or publicity, in an immediate increase in the funding and staffing of the water supply programs in the States we have surveyed. And in one case where it was not immediate, it is coming around. They didn't believe our recommendations the first time, they had them checked by an independent unit, which agreed with us, and now that situation has undergone change.

So in summary I would argue that there is much more immediacy now in the water supply case, much greater weight in public opinion which will stimulate funding and we have actually seen that borne out in cases where we have made these studies. I don't think we need to supply Federal funds for the purpose of stimulating programs.

Senator STEVENS. My understanding is that EPA has done considerable research on the number of outbreaks of illness. You mentioned that in your statement.

Mr. FRI. Yes.

Senator STEVENS. What are the results of the studies?

Are there any indications of trends you can show from illness caused by water?

Mr. FRI. I should probably let Mr. McDermott reply to this. I will give a preliminary answer though. We have examined the statistics of known water borne disease outbreaks over the past decade or so. They are highly erratic. We will go along for a year or two without many cases; then you will have a great big case like the Riverside case which will run the numbers up.

I understand that the most recent average is a little higher than the long term average, but I don't really consider that a trend for two reasons. One is that the whole thing is so erratic and random that it is a little hard to analyze. The second is that it may very well be a reporting phenomenon.

We are not at all sure that we were getting all the reports on disease outbreaks—water borne disease outbreaks—in the past. There seems to be somewhat less stigma attached to reporting these now. If there is a slow rise in the reported incidence it may very well be because people are reporting more of the incidents that have been occurring all along.

So I don't think that there is a strong and discernible trend that you can really rely on. The situation is not critical. What worries me is that we do see a number of standard violations and we are just asking for trouble, and we would like to get in front of that problem.

Jim, do you want to add anything to that?

Senator STEVENS. What about the reporting? Has it resulted at all in increased accuracy in reporting in such instances?

Mr. FRI. I am sorry I didn't hear the first part of your statement, Mr. Chairman.

Senator STEVENS. Does the higher intensity give you greater indication of illness than you have had before?

Mr. FRI. Well, I think there are more reports and we may be seeing a slightly higher level of reporting. Whether that means that there are actually more outbreaks or not is, as I understand it, quite debatable because we were not at all confident that we were getting anything like all of the outbreaks reported in the last decade or so.

Senator STEVENS. Did you want to make a comment?

Mr. MCDERMOTT. Perhaps I could cite a few numbers that might serve as an example of what Mr. Fri has been speaking to.

During the decade 1961 through 1970, that ten year period, there were the 128 to 130 outbreaks specified as reported by one level of government to another.

Now that averages out at approximately one outbreak per month. Within the last 2 years, preliminary statistics indicate that the outbreak rate is up to something like two outbreaks per month.

As Mr. Fri has noted, we do not view this as a major shift, a 100-percent change, in the rate of outbreaks, because in our studies and reports, some of which were alluded to in this morning's testimony, we have pointed out that the one per month rate in the 1960's did probably reflect an under-reporting phenomenon. Now with respect to the last several years I believe the activity and interest expressed in Congress, the EPA studies and investigations, and the like, have perhaps somewhat relieved local jurisdictions of the stigma of identifying that they have a problem with a view to seeking corrective action.

Another point: Throughout this entire period of time it would appear that if we look at the question of conventional community water supply systems as that term is generally used, there are approximately 3 to 6 outbreaks per year of that type.

On the other hand, and both the administration's bill and your bill relates to this question, the remaining outbreaks that occur each year generally occur in what are referred to as semipublic systems, those that are not necessarily serving a community, but which are serving smaller types of situations: the restaurants, the motels, rest stops, recreational areas, that type of situation.

Senator STEVENS. Your proposal is a burden on the local governments; that is the unfortunate part about it. For the bulk of those situations, those will be the ones that will not be met by your proposal. These are the truck stops, local semipublic small concerns. There will be no involvement of Federal agencies in those situations, will there?

Mr. MCDERMOTT. Under existing statutory authority, most States do have the current responsibility for administering programs covering all of these situations at the present time, sir. As Mr. Fri has noted, we believe that the further identification of Federal standards, with the specific responsibility resting at the State level for implementing these standards, aided by the public notification and citizen suits provisions, will mean that the local citizen will become more aware of what is going on and, hopefully, not only support the local institutions and county institutions, but also the State programs through the State legislatures, so that the government responsibility will be supported as well as the utility responsibilities.

Senator STEVENS. But it seems to me that you have an inconsistency. You say that you believe you should have authority to prevent an imminent hazard, isn't that the phrase used here? And yet, I would assume you would agree that those hazards are going to be more prevalent in rural and isolated communities than anywhere else. How are you going to get notice of outbreaks in these areas in order to exercise your responsibility? Certainly New York and Chicago and Washington, D.C. systems are going to have adequate attention so that you won't be dealing with them in the event of imminent hazard. It is the smaller systems that you are going to have to deal with, isn't it?

Mr. FRI. Yes; as I said in my testimony, much of the problem of inadequacy appears, from our community water study, to come from many of the smaller community systems, smaller systems serving smaller communities. The notification problem is a serious one. I think it is inherent in the situation. There are 40,000 community water systems in the country alone, and the question is, how do you get 40,000 people to report to you?

Fundamentally, we would rely on State and local responsibility, and prop that up the best you can rather than sending "feds" out to examine 40,000 systems once a month. Both S. 433 and the administration bill, point out that responsibility of Federal Government should be to monitor State programs to a limited extent, just make sure that they are enforcing their laws, and duplicate the State program as little as possible. What we have tried to do in the administration bill, as we are concerned about this question of reporting, is to build a foundation based on the whole concept that there must be right of entry, there must be adequate monitoring, and there must be reporting of the quality of the water, not only to us, but to the public who is served by this system.

And by emphasizing those points in the structure of the administration bill, and making the monitoring requirement part of the primary standard, which must be met, we hope to get the kind of reporting that we need. This is the answer to the basic question of how are you going to get people to report to you in a situation where you have 40,000 water supply systems, no matter what legislation you pass, unless you put a bunch of Federal inspectors out in the field to inspect each and every one of those systems on a regular basis.

Senator STEVENS. But you have used a threshold concept of imminent hazard. You have used that concept in the Federal Food and Drug Act, for instance, and didn't send the inspectors out to look at canneries and slaughter houses and the Federal Government only got involved after we had discovered a virus. We wouldn't have a Federal food and drug enforcement program. You are coming in at a level, threshold level, that is so high that you are getting involved only after there has been an outbreak.

Mr. FRI. Now, we are talking about two different things here, I think. One is that the imminent hazard provisions relates to the threshold for Federal enforcement.

You are quite right. The way we have structured this, the administration bill, is direct Federal enforcement against the standard itself as based on an imminent hazard finding; however, the basic enforcement that we see taking place in this process is what a local system must do under State supervision. Typically, this includes adequate monitoring and reporting the results of that monitoring if something has gone wrong.

Senator STEVENS. Let me postulate this to you. We have got canneries in Kodiak, Alaska, and we send Federal Food and Drug Act inspectors to Kodiak to look at those canneries to make certain that the standards of cleanliness, and the quality of the fish are maintained. But you are saying that the community water supply, which the canneries use, is beyond the scope of Federal inspectors.

Mr. FRI. No; I didn't say that.

Senator STEVENS. I would think there would be nothing that would be more central to the health of our citizens than safe water, and I don't understand this imminent hazard threshold in regard to your enforcement activities. Certainly the Federal Government is enforcing the Federal Food and Drug Act right down to the guy who is cutting the fish open.

Mr. FRI. I understand that. But what we can do is this: Let's suppose we go into the water supply system in Kodiak. We would from time to time, either going through the State program or directly to the city, itself, determine—and we could determine through correct Federal inspection whether adequate monitoring is taking place and whether adequate reporting to the public is taking place, so that, if the primary standards were, in fact, being violated, the public was being notified. Failure to either let us in to look, failure to monitor or failure to report to the public, to the State and ourselves is a prohibited act under the administration bill.

So we can, I think, under this legislation, insure that the water supply system in Kodiak or any place else in the country is report-

90-224 O - 82 - 59

ing, in fact, on a regular basis, to the public that uses that water. Our feeling is that when you get your water bill from that system, which, if it is like most systems, is charging you on a use basis for that water, and with that bill, you also get a little notice saying your water isn't any good and it is dangerous to your health, given the citizen suit provision built into our legislation, that there will be rather quick action taken to correct that situation.

Now, if that situation persists and nobody does anything about it and it does begin to present an imminent hazard, we can move in with Federal enforcement to make sure corrective action is taken, but there is a Federal—it is a prohibited act under the law, but there is Federal enforcement to insure that the public is put no notice as to the quality of its water.

Our belief is that once that notice is given, and based on the experience we have had under the interstate carrier program, once that notice is given, there will be quite speedy remedial action. Folks just don't like to be told their water isn't any good.

Senator STEVENS. I think that is one of the basic differences apparently, between our bill and the administration's bill.

I have to smile a little bit because I have watched my wife open up a package of cigarettes, every morning, and I don't think a warning is stopping smoking at all. I am not sure that a warning is sufficient, and it seems to me, and I think this reflected in the bill last year, that the committee feels there is a lower threshold for the entrance of Federal enforcement activities than the occurrence of an imminent danger. It would seem there must be some way to work that out. I don't see how you would get involved before there was actually an outbreak, if I understand your concept of imminent danger correctly.

Mr. FRI. Well, as I understand both pieces of legislation, there must be a violation of the primary standard before Federal enforcement action takes place. So it seems that we are both in the position here, if I read these bills correctly, of a standard being violated.

Senator STEVENS. We may not be that far apart.

Mr. FRI. It is a question of when does the Federal Government then move in if no action is taken? And I guess we tend to approach it from somewhat different directions. We may arrive at essentially the same place.

Setting aside the truly acutely toxic kind of a problem that might show up where we all ought to step in agree under the imminent hazard provision, I gather the committee bill would in effect give us the right to move in after 30 days, if the State didn't do anything, and we would, under an imminent hazard type finding which says that what has happened is a serious risk to public health. I think the words in S. 433, are an unreasonable risk to public health.

I am not sure what the difference is. But we would at some point presumably say, "Look, this has gone on long enough, where a risk has built up that we consider serious and step in with relief or whatever regulation we felt needed to be issued. I suspect we would tend to wind up at the same place. We put the Administration bill together from a philosophy that says let's start on the assumption that the State and local people are going to do the job, particularly

if the notification provisions is built in, and let us, you know, be dragged into the situation when it is warranted.

Senator STEVENS. Well, as I said, we may not be as far apart as it sounds, at least as I interpret it. You know that the question of virus in treated drinking water was raised last year at the hearings and at that time you indicated that your findings were preliminary regarding that subject and that a report was being prepared by your agency.

Then you indicated that viruses were found in finished water in Lawrence, Mass. Were those findings confirmed and can you tell us have there been any other discoveries of viruses in drinking water?

Mr. FRI. The latest report I have is this. That report which discussed Billerica and Lawrence has undergone an internal review and an external outside scientific review since that time. Question has been raised as to whether the samples were contaminated in the laboratory.

What that means is we are all convinced, or pretty well convinced that we have found viruses in the samples we analyzed. The question is where did the virus come from? Did it come from the water supply system or was it a contamination in the laboratory? They were tested as I understand it, in a laboratory that had done viral testing for a long time. And in that condition, contamination can take place.

Our scientists inside and outside the Agency are trying to sort that out. We are presently undertaking other studies, hopefully having eliminated this potential contamination problem in nine cities. The report I have here says that as of May 25, 1973, no evidence of viruses were found with the possible exception of Lawrence and Billerica, where we may have a contamination problem.

We are also developing a simple short test, 1 day instead of a 6-week test, for viruses, under a contract with Harvard University, which would tend to get us out of the contamination problem.

Senator STEVENS. We understand there was some found in this area, Fairfax County; you indicate none was found.

Mr. FRI. We have studied the Washington, D.C., system itself, which is run by the Corps. I have heard about the Fairfax County report. It is not the specific system we are studying in this area and Mr. McDermott and company are trying to find out just exactly what happened in that case. I don't know whether we know definitively.

Senator STEVENS. In case it comes up, could you give us a short report on that if you find out what was the situation in Fairfax County. You don't have to give it now, but if you can give us a report when you determine what it was. Your testimony is now that as far as those two prior incidents are concerned, you are not confident where the virus came from.

Mr. FRI. That does seem to be a problem. We have had this reviewed now and there is a scientific dispute over it within the Agency which has came to my attention when people started asking, whatever happened to the virus study? And the dispute has surfaced. I am not scientist enough myself to resolve it correctly, but there does appear to be some potential for contamination.

. I think as I testified last year, what is important here is to realize that there can be a problem, a virus contamination of drinking water. I am sure that that is not a disputed statement at all.

Other countries have worried about this problem. We do need to get on with it to perfect our measurement technology. We do not, it seems to me, at this point, have evidence that we are dealing with an imminent hazard.

But it is a problem which is certainly of sufficient concern to require study and solution and we are working at that and the fact that we may have had a blitz on these two studies does not invalidate the basic thrust of our program.

Senator STEVENS. You have opposed the operation and maintenance requirements as part of a Federal system. Is it your position that these requirements are not necessary?

Mr. FRI. I think operation and maintenance requirements and guidelines are highly desirable. We have not included them in the administration bill as part of a mandatory standard for a couple of reasons:

One is technical and one is administrative. The technical reason is essentially that the variations in operating and maintenance practices around the country caused by local geographic, hydrologic and other conditions, make it rather difficult to write a very specific operation and maintenance standard.

Senator STEVENS. You are talking about a national level?

Mr. FRI. National level.

Senator STEVENS. Are you satisfied that there are such standards on the State level?

Mr. FRI. We are satisified that it is possible to set those, in that a number have been set. I can't tell you off the top of my head how many.

Senator STEVENS. But you wouldn't require them to be set?

Mr. FRI. That's right.

Senator STEVENS. Even by the State governments?

Mr. FRI. We would not statutorily require them to be set by the State governments, that's right.

Mr. MCDERMOTT. We would strongly encourage the States to do so.

Mr. FRI. There is a whole lot of resistance to that idea. The other administrative idea is making it part of the Federal statutory standard, particularly if there were Federal "match-in" authority, this would get us involved potentially in a lot of action which are things that are nice to fix up, but do not result in a violation of the primary health-related standard which is, after all, the objective of the exercise.

Senator STEVENS. Are there any States that have them now?

Mr. MCDERMOTT. I don't have that information with me?

Senator STEVENS. Could you provide it for the record?

Mr. FRI. Surely.

Senator STEVENS. Could you give us some examples of what type of operational requirements you think might be appropriate even if they are on a State level? This is another difference between us.

Mr. FRI. That is true.

[The following information was subsequently received for the record:]

Few states have specific or extensive standards covering operation and maintenance. Thirty do have some standard in the form of a statute or a regulation. Fifteen have policy statements and 16 have no reference whatsoever to operation and maintenance.

OPERATION AND MAINTENANCE REQUIREMENTS

State law should authorize the organizational entity responsible for water supply surveillance to establish regulations governing the operation and maintenance of water supply systems. The regulations should set forth operational and maintenance requirements, which when followed will insure that a water supply system will perform as designed and that the possibility of system failure is minimized.

The following general areas should be covered:

1. Certification of water treatment plant operators—training, experience, examination, etc.
2. Procedures for examination of potable water.
3. Plant quality control measures and recordkeeping.
4. Requirements for operational recordkeeping.
5. Operational requirements of the various unit processes used in water treatment, including the provision of reserve or emergency capacity.
6. Protection of finished water quality in reservoirs and in the distribution system.

The "Manual for Evaluating Public Drinking Water Supplies" GPO (1972–759–281/2113) contains various operation and maintenance requirements. Several are reproduced below:

Supervision

Every water treatment plant producing water for public, domestic use should be under the full-time control of a tecnically trained and State certified supervior. For certain types of small plants, part-time trained supervision may be permissible; in such cases, the supervisor should be on call for any emergency and should inspect the plant at least twice each week.

Laboratory Tests and Control

All water quality tests should be made in accordance with the current edition of Standard Methods for the Examination of Water and Waste Water. The schedule of laboratory tests followed in controlling the operation of a water treatment plant will vary with the volume and character of the water being treated.

Chlorination

Chlorination equipment should be selected, installed, and operated to achieve continuous and effective disinfection under all possible conditions, with enough stand-by units to ensure uninterrupted operation. The capacity of the regular chlorination equipment, stand-by equipment excluded, should exceed the highest anticipated dosage. The determination of this maximum dosage (and normal dosages) should be made with the guidance and approval of the appropriate health agency. The characteristics of the water to be treated, conditions of water use, and type of chlorination provided, i.e., free or combined chlorine residual, should be considered. Frequent operation of stand-by units to ensure reliability can be accomplished by rotating the stand-by assignment from unit to unit on a monthly basis.

Rapid Granular Filters

In general, rapid granular filters should be designed and operated to maintain high efficiency in particulate removal and to keep the filtering medium free of mud balls, cracks, and other hindrances to efficient filtration. The total available filter area should be divided into several independent units so that maximum demands occurring during cleaning or repair of individual units can be met. Rapid granular filters are operated at 1.5 to 3.0 gallons per square foot per minute and are usually cleaned every 12 to 40 hours. Cleaning is normally done when sufficient head loss has been established to put the bed and its underdrainage system under partial vacuum or when there seems to be

danger of a breakthrough. This partial vacuum should not be allowed to become large enough to cause air binding or shrinkage cracks to occur; backwashing should be done before evidence of a breakthrough is seen.

FLUORIDATION

Fluoridation operations in public water supplies should be checked very carefully in the course of a sanitary survey. Accurate and complete records should be kept at the plant, and all responsible personnel should be competent to operate the fluoridation equipment, with strict attention paid to the operation of the dosing equipment. Dry chemical feeders can be clogged by lumps formed in the holding bin, and hydrofluosilicic acid feed equipment can be corroded because of the active nature of the chemical. Fluoride dosing devices should be checked frequently by the operators to assure accurate dosing. All dosing devices, whether they are single-set constant flow dispensers or dispensers paced to the flow of water through the plant, should be checked to see that they perform reliably.

WATER DISTRIBUTION SYSTEMS

The distribution system should be maintained to prevent contamination of any part of the system during necessary repairs, replacements, or extensions of mains. When pressure in any part of the distribution system becomes abnormally low, provisions should be made to notify consumers in the area of necessary protective health precautions.

Senator STEVENS. Is it not?

Mr. FRI. Yes.

Senator STEVENS. You would oppose even the concept that we mandate the States to have an operation and maintenance standard.

Mr. FRI. Well, it is not in the administration bill. I think we both see that the States should have such standards. The question, I suppose, is really one of do you think that they are going to do it anyway or does it have to be federally mandated?

Senator STEVENS. In the pollution of air, we have mandated the States and you have to approve the standards, don't you?

Mr. FRI. We do for sewage treatment plants, but there is a situation where we are handing out 75 percent of the dough for the plant itself.

Senator STEVENS. Maybe that is another justification for having a little bit of a grant in there.

Mr. FRI. I don't think I would see it that way, Mr. Chairman. Otherwise under the new Water Pollution Act, we write a permit for the municipal plant, say this is what the discharge has to look like, we establish the monitoring requirements and that is pretty much it, in right of entry requirements. That permit looked an awful lot like the procedure that is under this act. And we have provided gobs of technical information on how to run the sewage treatment plants.

Senator STEVENS. Are cross-connection control procedures necessary for public water system? Let me tell you the staff informs me that it is possible that this type of problem was the cause of the hepatitis outbreak on the Holy Cross football team, for instance, and that cross-connection control procedures reduce possibility of contamination in water systems as a result of reduction in pressure and subsequent siphoning.

Would you agree they are necessary?

Mr. FRI. Well cross connection problems are serious problems of water supply systems, and we need procedures to correct them. The

engineering crowd could probably talk more intelligently than I about the specifics of that problem.

Senator STEVENS. This leads to the question of whether you will be precluded from establishing cross-connection procedures if you are restricted to specifying only the maximum amount of contaminants? In effect, you are involved in systems analysis, not in direct analysis.

Mr. FRI. Well, it falls essentially under the same argument as operations maintenance procedures, yes

Senator STEVENS. Would you be precluded from getting into that activity under your bill?

Mr. FRI. Not in the sense of providing information, unless it was an imminent hazard situation.

Senator STEVENS. Section 8 of S. 1735 requires each State to submit a water supply program plan to EPA within 1 year after enactment. We understand the purpose of that section as it is in S. 433 is to insure the States are operating their programs properly. But what is the inducement under your bill for the State to comply?

Mr. FRI. To comply with submitting a plan, or doing——

Senator STEVENS. We have program grants, we have something we can cut off if they don't do it. What do you do if they don't comply?

Mr. FRI. Well, as I say, our experience so far with the States has been on these services that many, if not all, of the States would like the kind of commentaries we can provide them on how to run a program, what is wrong with the program, and that when we do that, they are, or have been thus far, quite expeditious in taking action to resolve problems.

Again, I go back to the point that our belief is that with a water supply case, unlike the air and water pollution cases, that the program grant is not necessary to stimulate interest in the program, and that the States thus far have willingly taken and acted on our recommendation.

Therefore, getting this plan will facilitate that kind of communication, and I don't think we need the authority to threaten them with cutting off a State program grant in order to get action on the part of the States. We haven't had that problem.

Senator STEVENS. Well, you haven't had the authority yet. What would you do if the State didn't give you cooperation?

Mr. FRI. We would probably engage in a lot of dialog with the State, but we won't have the authority to extract the plan from them. They can also tell me to take our money and go home, and that has happened a couple of times.

Senator STEVENS. Yes, I understand that has happened in a couple of States, too, but still it gets to a basic problem. If we had similar provisions, we could cut off all Federal grants if they don't comply. There is some concept of the carrot and the stick in terms of double standards.

Mr. FRI. That is right, and I think the committee bill reflects that concept which is the concept that is not unfamiliar in legislation of this type, whether it is in the environmental field or lots of other fields. I simply go back to our view: We all agree that there is a

problem. I think we are in agreement on the mechanics of what needs to be done to solve it. I am not persuaded that because there is a problem and because of the mechanics and things that need to be done to solve it are clear, that the Federal Government has to necessarily step in.

Of course, in this case, our experience is quite persuasive to me, The impetus behind getting public water systems fixed up is so substantial that we can get this job done without engaging in the administrative machinery that goes along with program grants and the like.

Senator STEVENS. If you will bear with me, this is a rather long, complex inquiry concerning a definition of the public water supply system. The definition of the public water supply system under both bills, as I understand it, includes any system which provides drinking water facilities or establishments serving travelers in intertate commerce.

S. 433 goes on to authorize EPA to exclude any such system or class of systems if unreasonable threats to public health will not result. This portion of the definition, I take it, comes with respect to drinking water served in interstate commerce, et cetera.

I am told that it has been estimated there are some 200,000 of these throughout the country, and that studies by GAO and EPA have indicated a substantial number of problems at these facilities. We went through that before. I assume you would agree with that so far. Is that correct?

Mr. FRI. Yes.

Senator STEVENS. These are substantial area problems.

The purpose of the exclusion and the definition is to remove from regulation those semipublic systems by class or by State if a proper regulatory job is being done by the States, or the use of drinking water at such facilities is minor, like a small country gas station.

If this exemption provision is retained, what would be your estimate of the number of these systems that would remain subject to Federal regulation?

Mr. FRI. I don't have an estimate of that, do you, Jim?

Senator STEVENS. Put it the other way around, how many people are being carved out by this?

Mr. MCDERMOTT. I think, sir, the answer to your question is this. If the 200,000 systems you refer to, we estimate that some 30,000 could and should be subject to regular inspections by State or county government to assure the quality of water.

Now, in terms of the number of population—the populations referred to in the context of being carved out—I think you have to realize the 40,000 community systems currently serve an estimated 160 million people. That is the permanent resident population.

On the other hand, we have the 55 million people beyond the community systems, plus the transient population that would be using the 200,000 systems you refer to.

Senator STEVENS. So we are really excluding 170,000 small systems and aiming at the 30,000, is that right?

Mr. MCDERMOTT. Not entirely, sir. As I said before, the 30,000 systems should be subjected to regular insjections. Perhaps this is in the order of once a year or perhaps once every 3 years.

Now with respect to the remaining 170,000, the occasional gas station or cross roads restaurants, we would suggest that these should also be subject to inspection, but with a lesser frequency.

Senator STEVENS. What would it cost the States to maintain some regulations on those? Aren't they already doing it through their health departments?

Mr. FRI. Substantially, it is meant to be done by the health departments, and the estimate we have, as I understand it, for the 200,000 systems is some $60 million a year, although that is predicated on a regular inspection type argument as is contemplated for the community, the large and regular systems.

As Mr. McDermott pointed out, what we are interested in here is that we think all of these systems at some point or another need to be looked at. The question is really one of frequency more than carving out for no attention whatsoever.

Senator STEVENS. We are right back to our grant system section again, then. If we have the section in S. 433 that provides that two-thirds financing of such programs and also requires that such an inspection program be maintained, wouldn't this accomplish the purpose of including these systems that have been excluded from the Federal system in the State programs?

Mr. FRI. Well, I don't think it would cover as much. What you would have to argue is that by giving the States more money, they would do more of the work. We have, or I have, looked at some of the figures that we have. Let's take just the community systems, of which we have a fair number. We estimate about $40 million for the 35,000 or 40,000 community systems.

Of that, $30 million is connected with monitoring and surveillance of programs. $10 million is largely overhead, travel, and that kind of thing. $10 million is roughly what is being spent today on water systems, State water supply programs in the country.

Now, I am persuaded, myself, that I don't really see the reason why the Federal Government should pick up the tab for the other $30 million, which is essentially providing a service by the States to the systems. They are supplying a product for which they charge. If a State needs more funds to provide that service to people who charge for their product, I would hope that they would charge for their service.

There is nothing much to be gained by running that money through EPA's administrative machinery and taking a few percent off the top for administrative expenses. I just don't see it, I guess, as a real need for the Federal Government to move in with Federal dollars to pay for a service provided the people are charged for the product.

Senator STEVENS. But these are semipublic systems. A gas station is not charging for its water. The trailer camp is providing water incidentally to the other services they provide. They are not in the business of providing water.

It would seem to me that if you want to extend the inspection system to the great bulk of the 200,000 systems, they will be excluded under your system.

Mr. FRI. We are all covering, I believe, the people involved in interstate commerce. What we are talking about is subsection C of that paragraph, that would decide there is no unreasonable risk to public health.

Senator STEVENS. I think I am confused. I would appreciate it if you would give us a statement of the number of these facilities throughout the country and the number that your bill would cover, the number that you think S. 433 would cover, and what you think it would cost the States to provide coverage for those that are excluded from either bill, and then we will have a definition of what you were talking about in terms of grants.

We are talking about giving the States assistance to cover those areas which would not be covered by the other bill, whichever one Congress passes.

Mr. FRI. Let us provide you a written statement just so the record is clear.

[The following information was subsequently received for the record:]

It is estimated that there are roughly 200,000 water supply systems in this country serving the treveling public. About 80% are located at highway rests stops, restaurants, motels and service stations. The remainder serve parks and recreational areas.

The Administration bill (S. 1935) and S. 433 are substantially equivalent as to the water supply systems that would be covered under each bill. Both bills provide that a public water system is a system that provides drinking water to ten or more premises or 40 or more individuals. Both bills also cover systems that provide water to carriers serving travelers in interstate commerce or to facilities or establishments serving travelers in interstate commerce. S. 433 further provides coverage for "any other system that may pose an unreasonable threat to public health." While this provision might be useful in a given situation we would expect that substantially all systems which serve the traveling public and that would pose a threat to public health would already be covered by other provisions of the definition. There is some difference with respect to the coverage in the two bills as they relate to "facilities or establishments serving travelers in interstate commerce." S. 433 provides that systems under this provision may be exempted if there would be no unreasonable threat to public health. While no similar exemption is provided in the Administration's bill, as Mr. McDermott stated at the hearing (page 130 of the transcript) a very substantial number of these systems would not need regular inspection but should not be ignored entirely. We thus see the overall coverage under each of these bills as covering substantially the same systems. Of the 200,000 or so systems referred to earlier it is our estimate, agains very rough, that 30,000 to 45,000 of these should have regular inspection of a frequency of from one to three years and the remaining could even be less frequently.

It would be difficult to give an estimate of the costs to the States for coverage for those systems that are excluded from these bills. We are not certain how many would be excluded. In fact, very few might be excluded altogether, but as we have pointed out, there would be many systems that would require very infrequent inspections.

Mr. FRI. By looking at these two pieces of language that appear again, very quickly, I think we are both talking about the public systems, 10 or more premises, 40 or more connections. We are also talking about travelers in interstate commerce. The committee bill goes on then to provide an exclusion to those interstate systems, or those systems involved in providing drinking water to travelers in interstate commerce.

We both begin with the same universe, and then the committee bill carves down that universe and carves down part of the systems that are not going to present an unreasonable threat to public health. But let us put that together in a package and give you the numbers so that it is quite clear.

Senator STEVENS. All right.

Thank you very much. We appreciate your courtesy and your assistance. We have another vote on.

93D CONGRESS
1ST SESSION

H. R. 1059

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1973

Mr. ROGERS (for himself, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. HASTINGS, and Mr. ROBISON of New York) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to assure that the public is provided with safe drinking water, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after title XI the following new title:

"TITLE XII—SAFETY OF PUBLIC WATER SYSTEMS

"DEFINITIONS

"SEC. 1201. For purposes of this title:

"(1) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) The term 'Agency' means the Environmental Protection Agency.

"(3) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law,

"(4) The term 'person' includes a State or a municipality.

"(5) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or storage facilities not under such control which are used primarily in connection with such system.

"(6) The term 'supplier of water' means any person who owns or operates a public water system.

"(7) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(8) The term 'Council' means the National Drinking Water Advisory Council established under section 1210.

"NATIONAL DRINKING WATER REGULATIONS

"SEC. 1202. (a) (1) The Administrator shall pubish proposed national primary drinking water regulations within 180 days after the date of enactment of this title, and he shall publish proposed national secondary drinking water regulations within 270 days after such date of enactment. Within 60 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. The Administrator may from time to time revise such regulations.

"(2) No primary regulation promulgated under this section, or revision thereof (other than a revision making only technical or clerical changes in a regulation), shall take effect until one year after the date on which such regulation or revision is published in the Federal Register.

"(3) In proposing and promulgating regulations under this section, the Administrator shall consult with and shall take into consideration the recommendations of the Secre-

tary, and in promulgating such regulations he shall take into consideration the recommendations of the Council.

"(b) (1) National primary drinking water regulations prescribed under subsection (a) shall consist of primary drinking water standards described in paragraph (2) of this subsection.

"(2) Primary drinking water standards referred to in paragraph (1) shall be standards the attainment and maintenance of which, in the judgment of the Administrator, are requisite to protect the health of persons. Such standards—

"(A) shall apply to each public water system in each State;

"(B) shall specify the maximum permissible level in water, delivered to any user of the system, of each contaminant which in the judgment of the Administrator may have any adverse effect on the health of persons; and

"(C) shall contain criteria and procedures to assure a supply of drinking water which dependably meets the requirements of subparagraph (B), including but not limited to quality control and testing procedures, and requirements as to (i) operation and maintenance

of the system, and (ii) the minimum quality of water which may be taken into the system.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1203. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

"(1) has adopted drinking water standards which are no less stringent than the primary drinking water standards in effect under section 1202 (b) (2),

(2) has adopted and is implementing adequate procedures for the enforcement of such State standards, and

"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation.

"(b) The Administrator shall, by regulation, prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), and (3) of subsection (a) are satisfied with respect to the State, the period for which such determination will be

effective, and the manner in which the Administrator may determine that such requirements are no longer met.

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1204. (a) (1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1203 (a)) that any public water system in such State does not comply with any national primary drinking water standard in effect under section 1202 (b) (2), he shall so notify the State. If the Administrator finds such failure to comply extends beyond the 30th day after such notice, he shall give public notice of such finding, and he may (A) commence a civil action under subsection (b) (1), or (B) issue an order requiring any person subject to any provision of such standard to comply with such provision.

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State does not comply with any primary drinking water standard, he may (A) commence a civil action under subsection (b) (1), or (B) issue an order requiring any person subject to any provision of such standard to comply with such provision.

"(b) (1) The Administrator may bring a civil action under this paragraph in the appropriate United States district court—

"(A) to require compliance with an order issued under subsection (a), or

"(B) when authorized by subsection (a) to require compliance with (i) a primary drinking water standard, or (ii) any requirement of an applicable waste injection control program.

The court may enter such judgment as the public interest and the equities of the case may require, taking into consideration the time necessary to comply.

"(2) Any person who knowingly violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) shall be punished by a fine of not more than $5,000 per day.

"(c) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been prescribed, public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State and request the State to take appropriate

90-224 O - 82 - 60

remedial action. If the Administrator determines that such State has not taken such remedial action and is not likely to do so within a reasonable time, he shall publish such determination in the Federal Register.

"(d) Nothing on this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water standards, public water systems (but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title).

"EMERGENCY POWERS

"SEC. 1205. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such action may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who knowingly violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) (1) shall be punished by a fine of not more than $5,000 per day of violation.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

"SEC. 1206. (a) (1) The Administrator may conduct research, studies, and demonstrations, and render financial, technical, and other assistance to any person in the establishment and administration of a program of surveillance, monitoring, evaluation, and enforcement of a public water supply program, and in the conduct of research and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of dependably safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from the water;

"(D) improved methods for providing a dependably safe supply of drinking water including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water supplies; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1202.

"(3) The Administrator shall conduct a survey and study of—

"(A) disposal of waste which may endanger underground water which supplies any public water system, and

"(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

"(b) In carrying out this title, the Administrator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the public health aspects of providing safe drinking water; or

"(B) to train instructors and supervisory personnel to train or supervise persons in occupations

involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State drinking water safety programs, as defined in section 1207 (d) (1)).

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973; $30,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975.

"GRANTS FOR STATE PROGRAMS

"SEC. 1207. (a) (1) There are authorized to be appropriated for grants to States under this subsection to carry out State public water system supervision programs $5,000,000 for the fiscal year ending June 30, 1973; $7,500,000 for the fiscal year ending June 30, 1974; $10,000,000 for the fiscal year ending June 30, 1975.

"(2) From the sum appropriated under paragraph (1) for a fiscal year, the Administrator shall allot $50,000 to each State for such year, plus such additional amounts as he determines, on the basis of population, geographical area, number of public water systems, and other relevant factors, are necessary for the State to carry out its program.

"(3) Any State which has established, or which intends to establish, a public water system supervision program may apply to the Administrator for assistance under this subsection. If the Administrator determines that such State has established or will establish such a program and that such State will be able to assume primary enforcement responsibility for public water systems within one year after first receiving assistance under this subsection and that such State will comply with regulations under subsection (c), he shall approve the application of such State.

"(4) If the Administrator approves an application of a State under paragraph (3), then for each fiscal year in which such State complies with regulations under subsection (c), the Administrator shall pay out of such State's allotment not more than 75 per centum of the costs (as determined under regulations of the Administrator) of carrying out the public water system supervision program of such State; except that no assistance under this subsection may be granted to any State for any period beginning more than one year after such State first receives assistance under this subsection, unless during such period such State has primary enforcement responsibility for public water systems.

"(b) The Administrator shall prescribe regulations to carry out this section.

"(c) For purposes of this section:

"(1) The term 'State drinking water safety program' means a program of public water system supervision.

"(2) The term 'public water system supervision' means a State's adoption and enforcement of drinking water standards which are no less stringent than the national primary drinking water standards under section 1202(b)(2), and for keeping records and making reports required by section 1203(a)(3).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS

"SEC. 1208. (a) The Administrator may make grants to any person for the purposes of—

"(1) assisting in the development and demonstration of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations:

"(1) Grants under this section shall not exceed

66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

"(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities in any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(c) For the purposes of this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973; $7,500,000 for the fiscal year ending June 30, 1974; and $10,000,000 for the fiscal year ending June 30, 1975.

"RECORDS AND INSPECTIONS

"SEC. 1209. (a) Every person who is a supplier of water, who is otherwise subject to a primary drinking water

regulation prescribed under section 1202 or who is a grantee, shall establish and maintain such records, make such reports, and provide such information as the Administrator may reasonably require by regulations to assist him in establishing standards and regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b) The Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a primary drinking water regulation prescribed under section 1202 (or person in charge of any of its property), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsec-

tion (a) or which are pertinent to any financial assistance under this Act.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than $5,000.

"(d) Upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code; but any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term 'information required under this section' means any papers, books, documents or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"(e) For purposes of this section, the term 'grantee'

means any person who applies for or receives financial assistance, by grant or contract, under this title.

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1210. (a) (1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year

after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of such Council or otherwise engaged in business of such Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed ex-

penses under section 5703 (b) of title 5 of the United States Code.

"WATER SUPPLIES OWNED AND OPERATED BY FEDERAL INSTALLATIONS

"SEC. 1211. Each Federal department or agency having jurisdiction over any federally owned or maintained public water system shall comply with all primary drinking water standards in effect under section 1202 (b) (2).

"GENERAL PROVISIONS

"SEC. 1212. (a) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such agency for the purposes of carrying out the provisions of this title.

"(d) (1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

"(2) No financial assistance may be made available in the form of a grant to any person (other than an individual) any part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a–276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act."

(b) (1) Section 1 of the Public Health Service Act is amended by striking out "Titles I to XI" and inserting in lieu thereof "Titles I to XII".

(2) Section 2 (f) of such Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XII such term includes Guam and American Samoa".

(3) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title XII (as in effect prior to the enactment of this Act) as title XIII, and by renumbering sections 1201 through 1214 (as in effect prior to the enactment of this Act), and references thereto, as sections 1301 through 1314, respectively.

BOTTLED DRINKING WATER

SEC. 3. (a) Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new sections:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. (a) (1) (A) Within one hundred and eighty days after the date of enactment of this section, the Administrator shall publish proposed bottled drinking water standards. Within sixty days after publication of such standards, the Administrator shell, by regulation, promulgate such standards with such modifications as he deems appro-

priate. The Administrator may from time to time by regulation revise such standards.

"(B) No bottled drinking water standard, or revision thereof (other than a revision making only technical or clerical corrections in a standard), promulgated under this subsection may take effect until one year after the date on which such promulgated standard (or revision) is published in the Federal Register.

"(2) Bottled drinking water standards promulgated under paragraph (1) shall be standards which, in the judgment of the Administrator, are requisite to protect the health of persons who drink bottled drinking water. Such standards shall—

"(A) specify the maximum permissible level in bottled drinking water of any contaminant which may, in the judgment of the Administrator, have any adverse effect on the health of persons; and

"(B) for the purpose of assuring that the requirements of subparagraph (A) are met, include requirements as to (i) the preparation (including quality control and testing) of bottled drinking water and its storage prior to sale to persons who purchase it for purposes other than resale, and (ii) immediate containers (including container closures) in which bottled drinking water is sold to the consumer.

80-224 O - 82 - 61

Any level specified under subparagraph (A) of this paragraph for a contaminant shall be identical to any level which is specified by the Administrator under section 1202(b)(2)(B) of the Public Health Service Act for such contaminant and which is in effect under title XII of such Act.

"(b) It shall be unlawful for a person engaged in the business of preparing bottled drinking water to distribute in commerce any bottled drinking water if (1) it does not comply with each contaminant level applicable under subsection (a), (2) its preparation, storage, or container does not meet the requirements applicable under such subsection, or (3) such person is not registered in accordance with section 411.

"(c) For purposes of this section and sections 304, 411, and 704(a):

"(1) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) The term 'bottled drinking water' means water for human consumption sold to the consumer in a closed container.

"(3) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(4) The term 'prepare' when used to describe an activity involving bottled drinking water includes the bottling of bottled drinking water

"(5) The term 'commerce' when used in connection with activities involving bottled drinking water means trade, traffic, commerce, or transportation—

"(A) between a place in a State and any place outside thereof, or

"(B) which affects trade, traffic, commerce, or transportation described in clause (A).

"(6) The term 'distribute in commerce' means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

"REGISTRATION OF PREPARERS OF BOTTLED DRINKING WATER

"SEC. 411. (a) (1) On or before December 31 of each year, every person who owns or operates any establishment in any State engaged in the preparation of bottled drinking water shall register with the Secretary his name, principal place of business, and the location of each such establishment.

"(2) Any person upon first engaging in the preparation of bottled drinking water in any establishment which he owns or operates in any State shall immediately register with the Secretary as provided by paragraph (1).

"(3) Every person registered in accordance with paragraph (1) or (2) shall immediately register with the Secretary, as provided by paragraph (1), any additional

establishment which he owns or operates in any State and in which he begins the preparation of bottled drinking water.

"(b) The Secretary shall assign a registration number (or numbers) to any person registered in accordance with this section. The Secretary may charge those persons who register pursuant to this section a reasonable fee for such registration.

"(c) The Secretary shall make available for inspection, to any person so requesting, any registration filed pursuant to this section.

"(d) Every establishment in any State registered with the Secretary pursuant to this section shall be inspected by the Secretary, at least once in the one-year period beginning with the date of registration of such establishment pursuant to this section and at least once in every successive one-year period thereafter.

"(e) Any establishment within any foreign country engaged in the preparation of bottled drinking water shall be permitted to register under this section pursuant to regulations promulgated by the Secretary. Such regulations shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether bottled drinking water prepared

in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801 (a) of this Act."

(b) (1) (A) Section 301 of such Act is amended by adding after paragraph (p) the following new paragraph:

"(q) The failure to register as required by section 411."

(B) Section 302 (a) of such Act is amended by striking out "section 301 of this title, except paragraphs (h), (i), and (j) of said section" and inserting in lieu thereof "section 301 (other than paragraphs (h), (i), and (j) thereof) or 410 (b)".

(C) Section 303 (a) of such Act is amended by striking out "section 301" and inserting in lieu thereof "section 301 or 410 (b)".

(2) (A) Section 304 (a) (2) of such Act is amended by adding at the end thereof the following new sentence: "Any bottled drinking water distributed in commerce in violation of section 410 (b) shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States or United States court of a territory within the jurisdiction in which it is found."

(B) Secton 304 (d) of such Act is amended—

(i) by inserting after "interstate commerce" in the last sentence of paragraph (1) the following: "or any

bottled drinking water which may not, under section 410(b), be distributed in commerce";

(ii) by inserting "the first sentence of" before "paragraph (2) of subsection (a)" in paragraphs (2) and (3); and

(iii) by striking out "such paragraph (2)" in clause (i) of paragraph (3) and inserting in lieu thereof "the first sentence of such paragraph (2)".

(3) (A) The first sentence of section 704(a) of such Act is amended by striking out "and (2)" and inserting in lieu thereof "(2) to enter, at reasonable times, any establishment in which bottled drinking water is prepared or stored for distribution in commerce or after such distribution or to enter any vehicle used to transport bottled drinking water in commerce; and (3)".

(B) Section 704(b) is amended by inserting before "that any food" the following: "that any bottled drinking water in such establishment fails to meet applicable contaminant levels promulgated under section 410 or has been prepared or stored in violation of applicable requirements promulgated under such section or".

(C) Section 704(d) of such Act is amended by inserting after "unfit for food" the following: "or whether such food which is bottled drinking water meets the applicable contaminant levels promulgated under section 410".

(4) (A) Section 801 (a) of such Act is amended—

(i) by striking out "subsection (i) of section 510" in the second sentence and inserting in lieu thereof "section 411 (e) or 510 (i)";

(ii) by striking out "drugs" each place it occurs in the second sentence and inserting in lieu thereof "bottled drinking water or drugs";

(iii) by striking out "such samples" in the third sentence and inserting in lieu thereof "the samples delivered to the Secretary of Health, Education, and Welfare pursuant to this subsection"; and

(iv) by inserting before the period at the end of the third sentence the following: ", or (4) such article does not meet an applicable standard in effect under section 410 or has been prepared or stored under conditions which do not meet the requirements of such standard".

(B) Section 801 (d) is amended by inserting "or in violation of a standard in effect under section 410" after "this Act" in the first sentence.

(c) (1) Section 411 of the Federal Food, Drug, and Cosmetic Act, added by subsection (a), shall take effect on the first day of the seventh calendar month which begins after the month in which this Act is enacted, except that the Secretary of Health, Education, and Welfare may on or

after the date of the enactment of this Act promulgate such regulations as may be necessary for the administration of such section 411.

(2) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State engaged in the preparation of bottled drinking water, shall, if, prior to the first day of the seventh calendar month which begins after the month in which this Act is enacted, he registers with the Secretary his name, principal place of business, and location of each such establishment, be deemed to have complied with section 411 of the Federal Food, Drug, and Cosmetic Act for the calendar year 1973. Such registration, if made within such period and effected in 1974, shall be deemed to be in compliance with such section for that calendar year.

(d) Sections 410 and 411 of the Federal Food, Drug, and Cosmetic Act, added by subsection (a) of this section, shall not be construed to diminish any authority of a State or political subdivision of a State to adopt or enforce any law or regulation respecting bottled drinking water (as defined in such section 410), but no such law or regulation shall relieve any person of any requirement otherwise applicable under those sections.

93D CONGRESS
1ST SESSION

H. R. 10955

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 1973

Mr. ROGERS (for himself Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, Mr. HUDNUT, and Mr. ROBISON of New York) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after title XI the following new title:

"TITLE XII—SAFETY OF PUBLIC WATER SYSTEMS

"PART A—DEFINITIONS

"SEC. 1201. For purposes of this title:

"'(1) The term 'primary drinking water regulation' means a regulation which—

"'(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1212; and

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

"(2) The term 'secondary drinking water regulation' means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect taste, odor, or appearance of such water, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

"(3) The term 'maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"(4) The term 'public water system' means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen

service connections or regularly serves at least twenty-five individuals. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"(5) The term 'supplier of water' means any person who owns or operates a public water system.

"(6) The term 'contaminant' means any physical, chemical, biological, or radiological substance or matter in water.

"(7) The term 'environmental impact statement' means a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969.

"(8) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(9) The term 'Agency' means the Environmental Protection Agency.

"(10) The term 'Council' means the National Drinking Water Advisory Council established under section 1236.

"(11) The term 'municipality' means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

"(12) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(13) The term 'person' means an individual, corporation, company, association, or partnership, State, or municipality.

"PART B—PUBLIC WATER SYSTEMS

"COVERAGE

"SEC. 1211. Subject to section 1215, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

"(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

"(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; and

"(3) which does not sell water to any person.

"NATIONAL DRINKING WATER REGULATIONS

"SEC. 1212. (a) (1) (A) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall

promulgate such regulations with such modifications as he deems appropriate. Regulations under this subparagraph may be amended from time to time.

"(B) An environmental impact statement respecting the initial proposed regulations under this paragraph shall be filed within 120 days after the date of enactment of this title.

"(2) National interim primary drinking water regulations prescribed under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which are generally available (taking costs into consideration) on the date of enactment of this title.

"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than 2 years after the date of enactment of this title.

"(b) (1) Within 60 days after the date of publication of the report of the study conducted under subsection (e), the Administrator shall publish in the Federal Register recommended maximum contaminant levels and a list of contaminants for which recommended maximum contaminant levels cannot be established as provided in paragraph (2), and proposed revised national primary drinking water regulations as provided in paragraph (3). Within 180 days after such date of publication, he shall promulgate such revised

drinking water regulations with such modifications as he deems appropriate.

"(2) The Administrator shall by regulation establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report under subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall in the regulations under this paragraph list any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. He may change such recommended levels and the contaminants to which they apply, and such list, from time to time, based on information available to him.

"(3) Revised national primary drinking water regulations prescribed under paragraph (1) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is published or which is listed under

paragraph (2). The maximum contaminant level for a contaminant under such a regulation shall be as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been prescribed shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (2) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the term 'feasible' means feasible with the use of technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration). Such regulations shall be amended whenever changes in technology, treatment techniques and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 5 years.

"(4) (A) Revised primary drinking water regulations prescribed under paragraph (1) shall (subject to subsection (d) (2)) become effective on a date which the Administrator determines will allow sufficient time (taking cost into consideration) to apply the technology, treatment techniques,

or other means which will be necessary to meet the requirements of such regulations. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

"(B) Prior to prescribing the effective date of any regulation under this subsection, the Administrator shall file an environmental impact statement with respect to such effective date.

"(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

"(d) (1) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the Council.

"(2) No regulation under this section, and no amendment thereto (other than an amendment making only technical or clerical changes in a regulation) shall take effect until one year after the date on which such regulation or amendment is promulgated.

90-224 O - 82 - 62

"(e) (1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization, if appropriate arrangements cannot be made with such Academy) to conduct a study to determine the maximum contaminant levels which should be recommended under subsection (b) (2) in order to protect the health of persons from any known or anticipated adverse effects. In addition, such study shall include findings respecting the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons. The results of the study shall be reported to Congress no later than two years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in subparagraphs (A), (B), and (C) and in paragraph (3); and (E) recommended studies and test protocols for future re-

search on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

"(2) In developing its proposals for recommended maximum contaminant levels under paragraph (1)(D) the National Academy of Sciences (or other organization preparing the report) shall evaluate and explain (separately and in composite) the impact of the following considerations:

"(A) the existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult;

"(B) the exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants;

"(C) synergistic effects resulting from exposure to or interaction by two or more contaminants; and

"(D) the contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of inscreasing the risk of illness.

"(3) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any

conclusions based on such correlation shall be included in the report of the study.

"(4) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

"(5) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph (1) of this subsection.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1213. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

"(1) has adopted drinking water regulations which are no less stringent than the primary drinking water regulations in effect under section 1212,

"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations including conducting such monitoring and making such inspections as the Administrator may require by regulation, and

"(3) will keep such records and make such reports with respect to its activities under subparagraphs (1) and (2) as the Administrator may require by regulation. A State may adopt a variance procedure with respect to its primary drinking water regulations, if such procedure is consistent with that provided by section 1215.

"(b) The Administrator shall, by regulation, prescribe the manner in which a State may apply to the Administrator for a determination thaat the requirements of paragraphs (1), (2), and (3) of subsection (a) are satisfied with respect to the State and that the variance procedure of such State is consistent with section 1215, the manner in which the determination is made, the period for which such determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met or such variance procedure is no longer consistent.

"FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

"SEC. 1214. (a) (1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1213 (a)) that any public water system in such State does not comply with any national primary drinking water regulation in effect under section 1212, he

shall so notify the State. If the Administrator finds such failure to comply extends beyond the thirtieth day after such notice, he shall give public notice of such finding, and he may (A) commence a civil action under subsection (b) (1), or (B) issue an order requiring any person subject to any provision of such regulation to comply with such provision.

"(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State does not comply with any national primary drinking water regulation, he may (A) commence a civil action under subsection (b) (1), or (B) issue an order requiring any person subject to any provision of such regulation to comply with such provision.

"(b) (1) The Administrator may bring a civil action under this paragraph in the appropriate United States district court—

"(A) to require compliance with an order issued under subsection (a), or

"(B) when authorized by subsection (a), to require compliance with a national primary drinking water regulation.

The court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

"(2) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a), shall be punished by a fine of not more than $5,000 per day.

"(c) Whenever a supplier of water has information that the level of any contaminant in water of the public water system of such supplier is greater than the maximum contaminant level provided for in any national primary drinking water regulation which is applicable to such system or that required treatment techniques are not being utilized, such supplier shall inform the users of such system of such failure to comply with such regulation. The Administrator shall by regulation prescribe the time and manner for giving such notice. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than $5,000.

"(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been prescribed, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State

to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State and request the State to take appropriate remedial action. If the Administrator determines that such State has not taken such remedial action and is not likely to do so within a reasonable time, he shall publish such determination in the Federal Register.

"(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems (but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title).

"VARIANCES

"SEC. 1215. (a) Notwithstanding any other provision of this part:

"(1) (A) A State which has primary enforcement responsibility for public water systems may authorize a variance from the requirements respecting maximum contaminant levels or required treatment techniques of a primary drinking water regulation (or an amendment thereto) for any public water system found, due to compelling factors to be unable to meet such contaminant level requirements or techniques. A variance may be granted for not more than 1 year and may be renewed

twice for a 1-year period; but no variance (or renewal thereof) granted with respect to a primary drinking water regulation, or amendment thereto, may remain in effect more than 3 years after the regulation or amendment (as the case may be) takes effect. A variance shall be conditioned on the system's implementing such control measures as the State finds can be complied with during the period the variance is in effect.

"(B) A State which has primary enforcement responsibility may grant a variance from any provision of a drinking water regulation which requires the use of specified treatment technique with respect to a contaminant upon a showing by a public water system that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

"(C) The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance. If the Administrator finds that a substantial number of variances granted by a State under this paragraph are unwarranted or that in a substantial number of cases the State has failed to

impose reasonable control measures or other requirements during the period the variances are in effect, the Administrator may revoke his determination that the State has primary enforcement responsibility, in the manner provided in section 1213(b).

"(2) If a State does not have primary enforcement responsibility, for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

"(3) The Administrator may grant one or more variances to any public water system which, because of characteristics of the raw water sources which are reasonably available to the system, cannot meet the requirements respecting the maximum contaminant levels of a national primary drinking water regulation (or an amendment thereto) despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance shall be conditioned on the system's implementing such control measures as the Administrator finds can be complied with during the period the variance is in effect.

"(4) The Administrator may grant a variance from any provision of a drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant upon a showing by any person that alternative treatment techniques are at least as efficient in lowering the level of such contaminant. A variance under this subparagraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

"(b) Any control measure *or other requirement* on which a variance granted under this section is conditioned may be enforced under section 1214 as if such control measure was part of a national primary drinking water regulation.

"PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

"REGULATIONS FOR STATE PROGRAMS

"SEC. 1221. (a) (1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modi-

fications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

"(2) Any regulation under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the Council.

"(b) Regulations for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d) (2). Such regulations shall require that a State program, in order to be approved under section 1222—

"(1) shall prohibit, effective three years after the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the Administrator's regulations may permit a State to authorize underground injection by rule);

"(2) shall require, in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources;

"(3) may not by rule authorize any underground injection which endangers underground water sources; and

"(4) shall include inspection, monitoring, record-keeping, and reporting requirements.

"(c) (1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b) (2)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

"(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

"(B) the Administrator files an environmental impact statement, and determines the adverse effect on the environment of such temporary permits is not unwarranted,

"(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such States permit program approved under this part first takes effect and for which there was inadequate time to process its permit application, and

"(D) the Administrator determines the temporary permits require the use of minimally adequate safeguards established by rules adopted by him.

"(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b) (2), but after reasonable notice and public hearing one or more temporary permits each of which is applicable to a particular injection well and which may be effective until the expiration of four years after the date of enactment of this title, if the State has found, on the record of such hearing—

"(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

"(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

"(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

"(d) For purposes of this part:

"(1) The term 'underground injection' means the subsurface emplacement of fluids by well injection.

"(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

"STATE PRIMARY ENFORCEMENT RESPONSIBILITY

"SEC. 1222. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

"(b) (1) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation (and of each amendment thereof) under section 1221 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains—

"(A) evidence that the State—

"(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1221; and

"(ii) will keep such records and make such reports with respect to its activities under clause (i) as the Administrator may require by regulation; and

"(B) a draft of the statement required to be filed by the Administrator under paragraph (2).

"(2) Within ninety days after the State's application under paragraph (1) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's program. Prior to approving or disapproving such program, the Administrator shall file an environmental impact statement.

"(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clauses (i) and (ii) of paragraph (1) (A) of this subsection.

"(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b) (3) or if a State fails to submit an application before the date of expiration of the period specified in subsection (b) (1), the Administrator shall by regulation within 90 days after such disapproval or expiration date (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of such regulations. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect.

"(d) For purposes of this title, the term 'applicable underground injection control program' with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

"FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

"SEC. 1223. (a) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1222 (b) (3)) that any person who is

90-224 O - 82 - 63

subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such violation extends beyond the thirtieth day after such notice, he shall give public notice of such finding, and he may (A) commence a civil action under subsection (b) (1) or (B) issue an order requiring the person who is violating such requirement to comply with the requirement.

"(3) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may (A) commence a civil action under subsection (b) (1) or (B) issue an order requiring the person violating such requirement of such program to comply with such requirement.

"(b) (1) The Administrator may bring a civil action under this paragraph in the appropriate United States district court (A) to require compliance with an order issued under subsection (a), or (B) when authorized by subsection (a) to require compliance with any requirement of an applicable underground injection control program.

"(2) Any person who—

"(A) violates any requirement of an applicable underground injection control program to which he is subject (i) during any period for which the State does not have primary enforcement responsibility for underground water sources, or (ii) more than thirty days after having been notified by the Administrator under subsection (a) (2) that such person is violating such requirement, or

"(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a), shall be subject to a civil penalty of not more than $5,000 per day. In addition, if such violation or failure to comply is willful, such person shall be punished by a fine of not more than $5,000 per day.

"(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection (but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title).

"PART D—GENERAL PROVISIONS

"EMERGENCY POWERS

"SEC. 1231. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a

public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such action may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) (1) shall be punished by a fine of not more than $5,000 per day of violation.

"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION TRAINING OF PERSONNEL

"SEC. 1232. (a) (1) The Administrator may conduct research, studies, and demonstrations, and render financial, technical, and other assistance to any person in the establishment and administration of a program of surveillance, monitoring, evaluation, and enforcement of a public water supply program, and in the conduct of research and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man

resulting directly or indirectly from contaminants in water, or to the provision of dependably safe supply of drinking water, including—

"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

"(B) improved methods to identify and measure the health effects of contaminants in drinking water;

"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from the water;

"(D) improved methods for providing a dependably safe supply of drinking water including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water supplies; and

"(E) improved methods of protecting underground water sources of public water systems from contamination.

"(2) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1212.

"(3) The Administrator shall conduct a survey and study of—

"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water system, and

"(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

"(4) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

"(5) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

"(6) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

"(7) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction

wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

"(b) In carrying out this title, the Administrator is authorized to—

"(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

"(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

"(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

"(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations

involving the public health aspects of providing safe drinking water; or

"(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

"(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State drinking water safety programs as defined in section 1233 (d) (1)).

"(c) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1974; $25,000,000 for the fiscal year ending June 30, 1975; and $35,000,000 for the fiscal year ending June 30, 1976.

"GRANTS FOR STATE PROGRAMS

"SEC. 1233. (a) (1) There are authorized to be appropriated for grants to States under this subsection to carry out State public water system supervision programs $5,000,000 for the fiscal year ending June 30, 1975; and $7,500,000 for the fiscal year ending June 30, 1976.

"(2) From the sum appropriated under paragraph (1) for a fiscal year, the Administrator shall allot $50,000 to each State for such year, plus such additional amounts as

he determines, on the basis of population, geographical area, number of public water systems, and other relevant factors, are necessary for the State to carry out its program.

"(3) Any State which has established, or which intends to establish, a public water system supervision program may apply to the Administrator for assistance under this subsection. If the Administrator determines that such State has established or will establish such a program and that such State will be able to assume primary enforcement responsibility for public water systems within one year after first receiving assistance under this subsection and that such State will comply with regulations under subsection (c), he shall approve the application of such State.

"(4) If the Administrator approves an application of a State under paragraph (3), then for each fiscal year in which such State complies with regulations under subsection (c), the Administrator shall pay out of such State's allotment not more than 75 per centum of the costs (as determined under regulations of the Administrator) of carrying out the public water system supervision program of such State; except that no assistance under this subsection may be granted to any State for any period beginning more than one year after such State first receives assistance under this subsection, unless during such period such State has primary enforcement responsibility for public water systems.

"(b) (1) There are authorized to be appropriated for grants to States under this subsection to carry out State underground water source protection programs $5,000,000 for the fiscal year ending June 30, 1975, and $7,500,000 for the fiscal year ending June 30, 1976.

"(2) From the sum appropriated under paragraph (1) for a fiscal year, the Administrator shall allot to each State for such year, such amounts as he determines, on the basis of population, geographical area, and other relevant factors, are necessary for the State to carry out its program.

"(3) Any State which has established, or which intends to establish, an underground water source protection program may apply to the Administrator for assistance under this subsection. If the Administrator determines that such State has established or will establish such a program, that such State will be able to assume primary enforcement responsibilty for underground water sources within two years after first receiving assistance under this subsection, and that such State will comply with regulations under subsection (c), he shall approve the application of such State.

"(4) If the Administrator approves an application of a State under paragraph (3), then for each fiscal year in which such State complies with regulations under subsection (c), the Administrator shall pay out of such State's allotment not more than 75 per centum of the costs to the

State (as determined under regulations of the Administrator) of carrying out the underground water source protection program of such State; except that no assistance under this subsection may be granted to any State for any period beginning more than two years after such State first receives assistance under this subsection, unless during such period such State has primary enforcement responsibility for underground water sources.

"(c) The Administrator shall prescribe regulations to carry out this section.

"(d) For purposes of this section:

"(1) The term 'State drinking water safety program' means a program of public water system supervision or of underground water source protection (or both).

"(2) The term 'public water system supervision' means a State's adoption and enforcement of drinking water regulations which are no less stringent than the national primary drinking water regulations under section 1212, and for keeping records and making reports required by section 1213(a)(3).

"(3) The term 'underground water source protection' means a State's adoption and enforcement of a program which meets the requirements of regulations under section 1222(b)(1)(A)(i) and for keeping records

and making reports required by section 1222(b)(1)(A)(ii).

"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

"SEC. 1234. (a) The Administrator may make grants to any person for the purposes of—

"(1) assisting in the development and demonstration of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

"(2) assisting in the development and demonstration of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

"(b) Grants made by the Administrator under this section shall be subject to the following limitations:

"(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

"(2) Grants under this section shall not be made for any project involving the construction or modifica-

tion of any facilities in any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

"(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

"(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

"(c) For the purposes of making grants under subsections (a) and (b) of this section there are hereby authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1974; $7,500,000 for the fiscal year ending June 30, 1975 and $10,000,000 for the fiscal year ending June 30, 1976.

"(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a pro-

gram of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet primary drinking water standards (including interim standards) prescribed under section 1212. No such guarantee may be made with respect to a system unless (1) such system cannot obtain financial assistance necessary to comply with such standard from any other source, and (2) the Administrator determines that any facilities constructed with assistance under this subsection is not likely to be made obsolete by subsequent changes in primary standards. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed $10,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $10,000,000. The Administrator shall prescribe regulations to carry out this subsection.

"RECORDS AND INSPECTIONS

"SEC. 1235. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1212 or to an applicable underground injection control program (as defined in section 1222 (c)), or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulations to assist him in establishing regulations under this title, in deter-

mining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

"(b) The Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a primary drinking water regulation prescribed under section 1212 or applicable underground injection control program (or person in charge of any of its property), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this Act.

"(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to

enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than $5,000.

"(d) (1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

"(2) Any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term 'information required under this section' means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

"(e) For purposes of this section, (1) the term 'grantee' means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term 'person' includes a Federal agency.

"NATIONAL DRINKING WATER ADVISORY COUNCIL

"SEC. 1236. (a) (1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) the terms of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire

90-224 O - 82 - 64

two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment. The members of the Council shall be eligible for reappointment.

"(b) The Council shall advise, consult with, and make recommendations to the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

"(c) Members of the Council appointed under this section shall, while attending meetings or conferences of such Council or otherwise engaged in business of such Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel-time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 (b) of title 5 of the United States Code.

"(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

"FEDERAL AGENCIES

"SEC. 1237. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1212.

"(b) (1) Each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(2) The Administrator shall waive compliance with paragraph (1) of this subsection upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be con-

trary to the interests of national security, in which event the Administrator shall submit notice to the House and Senate Armed Services Committees.

"GENERAL PROVISIONS

"SEC. 1238. (a) (1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

"(d) (1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or

institutions. For purposes of this paragraph, the term 'non-profit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a-276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

"(h) Subject to sections 1212(a)(1)(B), 1212(b)(4), 1221(c)(2), and 1222(b)(2), no action taken by

the Administrator under this title shall be deemed to be a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

"(i) Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary."

(b) (1) Section 1 of the Public Health Service Act is amended by striking out "Titles I to XI" and inserting in lieu thereof "Titles I to XII".

(2) Section 2 (f) of such Act is amended by inserting "(1)" after "except that" and by inserting before the semicolon at the end thereof the following: ", and (2) as used in title XII such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands".

(3) The Act of July 1, 1944, (58 Stat. 682), as amended, is further amended by renumbering title XII (as in effect prior to the enactment of this Act) as title XIII, and by renumbering sections 1201 through 1214 (as in effect prior to the enactment of this Act), and references thereto, as sections 1301 through 1314, respectively.

RURAL WATER SURVEY

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall (after consultation with the Secretary of Agriculture and the several States) enter into arrangements with public or private entities as may be appropriate to conduct a survey of the quantity, quality, and availability of rural drinking water supplies. Such survey shall include, but not be limited to, the consideration of the number of residents in each rural area—

(1) presently being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system;

(2) presently having limited or otherwise inadequate access to drinking water;

(3) who, due to the absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard; and

(4) who have experienced incidents of chronic or acute illness, which may be attributed to the absence or inadequacy of a drinking water supply system.

(b) Such survey shall be completed within two years of the date of enactment of this Act and a final report thereon submitted, not later than six months after the completion of such survey, to the President for transmittal to the Con-

gress. Such report shall include recommendations for improving rural water supplies.

(c) There is hereby authorized to be appropriated to carry out the provisions of this section $1,000,000 for the fiscal year ending June 30, 1974; $2,000,000 for the fiscal year ending June 30, 1975; and $1,000,000 for the fiscal year ending June 30, 1976.

BOTTLED DRINKING WATER

SEC. 4. (a) Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised primary drinking water regulations under section 1212 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water standards either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.".

NOTE.—Identical legislation, H.R. 5368, was introduced in the House at the request of the administration.

93D CONGRESS
1ST SESSION

S. 1735

IN THE SENATE OF THE UNITED STATES

MAY 8, 1973

Mr. MAGNUSON (for himself and Mr. COTTON) (by request) introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To assure that the public is provided with safe drinking water, and for other puposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Drinking Water Act of 1973".

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds—

(1) that potentially hazardous drinking water directly or indirectly affecting interstate commerce is reaching many consumers due to inadequate treatment and distribution facilities, inadequate monitoring and surveil-

lance, and a lack of sufficient information and technology to adequately treat raw water to assure its potability;

(2) that the public should be provided with water that is safe for drinking and other human uses;

(3) that the public should receive prompt and accurate notification if its water is not safe for drinking and other human uses;

(4) that the primary responsibility and enforcement authority for insuring the quality of public water supplies has rested and should continue to rest with State and local governments;

(5) that the Federal Government has the responsibility for establishing minimum national primary drinking water standards and for recommending national secondary drinking water standards for all public water systems, and for supplying where appropriate technical assistance, research and development information, monitoring, and testing information.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Agency" means the Environmental Protection Agency.

(3) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico.

(4) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law and having jurisdiction over the supply of water to the public, and an Indian tribe or an authorized Indian tribal organization.

(5) The term "person" includes a State or political subdivision thereof, municipality, corporation, partnership, association, private or public nonprofit institutions, or an individual.

(6) The term "public water system" means—

(A) any system which provides drinking water (i) to ten or more premises not owned or controlled by the supplier of water or (ii) to forty or more individuals receiving such drinking water from a system;

(B) any system which provides drinking water to carriers, or facilities or establishments serving travelers in interstate commerce.

The term "public water system" does not include relocatable systems set up during disasters or emergencies or used in military field operations.

(7) The term "supplier of water" means any person who controls, owns, or operates a public water system.

(8) The term "contaminant" means any physical, chemical, biological, radiological, or other subs ance or matter which causes or transmits infectious disease, chemical poisoning, chronic disease, or other impairment to man.

(9) The term "allowable limit—health" means that water, delivered to any user of the public water system, containing substances above these limits presents a substantial risk to the health of humans and shall not normally be used for drinking or culinary purposes.

(10) The term "recommended limit—esthetic" means that water delivered to any user of the public water supply system, containing substances above these limits may be objectionable to an appreciable number of persons but is not hazardous to health.

NATIONAL DRINKING WATER STANDARDS

SEC. 4. (a) The Administrator, after consultation with the Secretary of Health, Education, and Welfare, (A) shall promulgate national primary drinking water standards as soon as practicable after the date of enactment of this Act and (B) may issue recommended national secondary drinking water standards for adoption and enforcement by State and local governments at their option. The Administrator shall specify in such regulations for national primary drinking water standards the date on which such regulations shall take effect, which shall be as soon as is practicable. The Ad-

ministrator shall, from time to time, revise such standards as appropriate.

(b) (1) National primary drinking water standards shall be standards, the attainment and maintenance of which are requisite to reasonably protect the public health, except that the Administrator shall not prescribe the addition of any substance other than for the purpose of treating contaminants. Such standards—

(A) shall prescribe the allowable limits—health for any contaminants which may exist in any public water system in the United States which may cause or transmit disease, chemical poisoning, or other impairments to man, allowing adequate margins of safety, and

(B) shall include standards for the adequate monitoring and reporting of water quality.

(2) Recommended national secondary drinking water standards, as described under subsection (a) of this section, shall specify the level of quality of drinking water the attainment and maintenance of which is requisite to reasonably assure esthetically adequate drinking water. Such recommended standards may apply to any constituent of drinking water (A) which may affect the taste, odor, or appearance of such water, or (B) which may otherwise be necessary to assure esthetically adequate drinking water. These standards shall be designated as recommended limits—esthetic.

(3) In establishing or revising standards or publishing recommended standards under this section, the Administrator shall take into consideration (A) the views and recommendations of recognized experts in the field of water supply engineering and public health and (B) the economic and social costs and benefits of such standards and their alternatives.

(c) The Administrator shall publish simultaneously with the issuance of any proposed national primary or recommended national secondary drinking water standard under this section—

(1) Such criteria and information as, in his judgment, are necessary to accurately reflect the nature and extent of identifiable effects on public health or welfare which may be expected from the presence of the contaminant which is the object of such proposed drinking water standards.

(2) Information and data on drinking water treatment methods and technology for the control of the contaminant which is the subject of such proposed drinking water standard. Such information and data shall apply to features of the water supply system at which control of the contaminant may be exercised including, but not limited to, treatment, storage, and distribution facilities and the adequate construction, maintenance, and operation thereof. Such information and data shall include where available the costs and the

effectiveness of such treatment and the time period necessary to control such contaminant.

(d) The Administrator shall, at least every three years, review the adequacy of any national primary or recommended national secondary drinking water standard under subsection (a) of this section and the criteria, information, and data published under subsection (c) of this section. The Administrator shall publish his findings in the Federal Register.

ENFORCEMENT OF STANDARDS

SEC. 5. (a) For the purposes of this Act, the States have primary enforcement responsibility except for Federal facilities which will comply with section 15 (a). The Administrator shall monitor the activities of the States and public water systems only to the extent necessary to determine if States are establishing and maintaining an adequate program to enforce the national primary drinking water standards.

(b) Whenever the water delivered by a water supply system is not in compliance with national primary drinking water standards, the supplier of such water shall notify its users, appropriate State agencies, and through the State, the Administrator, in accordance with regulations promulgated by the Administrator, of the noncompliance and the extent and nature and possible health effects of such noncompliance,

Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(c) Whenever, on the basis of information available to him, the Administrator finds that any public water system does not comply with any national primary drinking water standard and that necessary remedial action is not being taken, he shall so notify the State in which such water system is operating.

IMMINENT HAZARDS

SEC. 6. (a) An imminent hazard shall be considered to exist when there is reason to believe that a violation of the national primary drinking water standards by a public water system or any other condition will result in a serious risk to public health.

(b) If he determines that an imminent hazard exists, the Administrator may request the Attorney General to petition an appropriate district court of the United States to order such action as is necessary to eliminate the imminent hazard. The Administrator shall simultaneously, if he has not previously done so, propose any regulation which might be necessary under section 4 of this Act, or he may commence an action under section 13 of this Act.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION

SEC. 7. (a) The Administrator shall conduct research, studies, and investigations and render financial, technical, and other assistance to appropriate public agencies, institutions, water supply utilities, and individuals in the conduct of research, studies, and investigations relating to the causes, diagnosis, treatment, control, and prevention of diseases and impairments of man resulting directly or indirectly from contaminants in drinking water. Such research, studies, or investigations may include, but shall not be limited to, the development of—

(1) new and improved methods to identify and measure the existence of contaminants in drinking water and to identify the source of such contaminants;

(2) new and improved methods to identify and measure the health effects of contaminants in drinking water;

(3) new and improved methods of treating water to prepare it for drinking, to improve the efficiency of water treatment and to remove contaminants from the water; and

(4) new and improved methods for providing safe water for drinking to the public, including improvements in water purification and distribution, and methods of

90-224 O - 82 - 65

assessing the health-related hazards to other characteristics of drinking water supplies, and studies of the health implications of the reclamation, reuse, and recycling including both indirect and direct reuse of waste waters as sources of public water supplies.

(b) In carrying out this Act, the Administrator is authorized to—

(1) collect and make available information pertaining to research and investigations, with respect to providing adequate quality and quantity of safe drinking water together with appropriate recommendations in connection therewith; and

(2) make available research facilities of the Agency to appropriate public agencies, institutions, water supply utilities, and individuals engaged in studies and research relating to water supply.

STATE WATER SUPPLY PROGRAM PLANS

SEC. 8. (a) Each State shall file an annual State program plan with EPA defining the methods and resources to be applied in establishing and maintaining adequate programs to enforce the national primary drinking water standard for each type of public water system as defined in section 3 (6) beginning one year from enactment.

(b) Such State plan shall be satisfactory if it—

(1) provides for the adoption by the State of the

national drinking water standards or standards which are no less stringent than the national primary drinking water standards;

(2) provides for the adoption by the State of appropriate regulations and procedures for the implementation and enforcement of the standards adopted pursuant to paragraph (1) of this subsection;

(3) provides for the enforcement of the standards violation notification procedures under section 5(b) of this Act;

(4) provides for administration or for the supervision of administration of the plan by the State agency charged with the responsibility for the safety of drinking water;

(5) sets forth the plans, policies, and procedures to be followed in carrying out the State plan;

(6) provides for such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan;

(7) provides for the establishment of an emergency plan of action for each public water system within the State for use in case of an emergency affecting the safety of the treated drinking water or the effective operation of the treatment facility, including provision for emer-

gency reserves or alternate sources of water suitable for drinking and culinary purposes.

REGULATIONS, PROCEDURE, AND JUDICIAL REVIEW

SEC. 9. (a) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act and to amend or rescind such regulations at any time.

(b) The Administrator shall publish any regulations proposed under this Act, or proposals to amend or rescind such regulations, and his justification therefor in the Federal Register at least sixty days prior to the time when such regulations shall become final. The Administrator shall also publish in the Federal Register a notice of all petitions received under subsection (a) and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person directly and adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data, views,

or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(c) Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and the relationship of such findings to the regulations issued.

(d) Any judicial review of final regulations promulgated under this Act shall be in accordance with sections 701–706 of title 5, United States Code, except that, with respect to relief pending review, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay (a) is likely to prevail on the merits in the review proceeding and (b) will suffer irreparable harm pending such proceeding.

(e) Except as expressly modified by the provisions of this section, the provisions of section 551 of title 5, United States Code, and the following shall apply to proceedings conducted by the Administrator under this Act.

(f) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either (1) that the information is material and was not available at the time of the proceeding before the Administrator or (2) that failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator, the court may order such

additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

RECORDS AND INSPECTION

SEC. 10. (a) Suppliers of water and others subject to the requirements of this Act shall submit such reports and make available such records and information to the appropriate State agency as necessary for implementation of a State program required under section 8 of this Act.

(b) Any officer or employee duly designated by the Administrator, upon presenting appropriate credentials and a written notice of inspection authority to any supplier of water subject to a national primary drinking water standard prescribed under section 4 of this Act or any grantee (or person in charge of any of its property), is authorized to enter any establishment or facility or other property of such person in order to determine whether such supplier or grantee has acted or is acting in compliance with this Act, including, for this purpose, inspection, at reasonable time, of records.

files, papers, processes, controls and facilities, or in order to test any feature of a public water system, including its raw water source. Each inspection shall be commenced and completed with reasonable promptness and the supplier or grantee notified of the results of such inspection.

(c) For purposes of this section, the term "grantee" means any person who receives financial assistance under this Act.

STATE REGULATIONS

SEC. 11. Nothing in this Act shall affect the authority of any State or local government to establish drinking water standards or to make other requirements for purposes similar to those contained in this Act, except that any such standards or requirements shall not be less stringent than the requirements of the national primary drinking water standards under this Act.

PROHIBITED ACTS

SEC. 12. The following acts and the causing thereof are prohibited:

(1) Failure by a supplier of water to comply with the requirements of section 5 (b) of this Act, or dissemination by such supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with national primary drinking water standards.

(2) Failure by a supplier of water to comply with the

standards for monitoring and reporting pursuant to subparagraph (B) of paragraph 4 (b) (1) of this Act; or

(3) The refusal to allow entry and inspection of establishments, facilities, or other property pursuant to section 10 (b) of this Act.

PENALTIES AND REMEDIES

SEC. 13. (a) Any person willfully violating section 12 of this Act shall on conviction be fined not more than $15,000 for each violation or imprisoned for not more than one year, or both.

(b) (1) Any person not willfully violating section 12 of this Act shall be liable to the United States for a civil penalty of a sum which is not more than $10,000 for each violation, to be assessed by the Administrator after notice and opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the difficulties of achieving compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

(2) Upon failure of the offending party to pay the civil penalty, the Administrator may request the Attorney General commence an action in an appropriate district court of the United States to secure such payment.

(c) The Attorney General may bring an action in the

appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of section 12 of this Act, and the district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

CITIZEN CIVIL ACTION

SEC. 14. (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any national primary drinking water standard promulgated under section 4 of this Act; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action under paragraph (a) (1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred and any action brought under paragraph (a) (2) of this subsection shall be brought in the District Court of the District of Columbia.

This district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to any alleged violator of such standard, and (iii) to the State in which the violation occurs,

(B) if the Attorney General or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such standard.

(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section to which the United States is not a party, the Attorney General at the request of the Administrator may intervene on behalf of the United States as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and

expert witness fees) to any party whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any national primary drinking water standard or to seek any other relief.

FEDERAL FACILITIES

SEC. 15. (a) Except as provided for in subsection (b) of this section, each Federal department or agency having jurisdiction over a federally owned or maintained public water system, shall comply with all national primary drinking water standards prescribed under section 4 of this Act and shall, to the maximum extent practicable, comply with any recommended national secondary drinking water standard prescribed under such section. Notification required by section 5 (b) will be submitted to the Administrator in lieu of the appropriate State agency.

(b) The Administrator may waive compliance with the requirements of subsection (a) of this section, in whole or in part, upon receiving information from the Secretary of Defense or from the Secretary of the Department in which the United States Coast Guard is operating that such waiver

is in the interest of national security. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for good cause shown by the Secretary of Defense or by the Secretary of the Department in which the United States Coast Guard is operating, in the interest of national security, unless the Administrator has been requested by the applicable Secretary to omit such publication because it would be contrary to the interests of national security.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 16. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

NOTE.—Similar legislation, H.R. 11876, was considered by the House Committee on Interstate and Foreign Commerce.

93D CONGRESS
1ST SESSION

S. 2846

IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 1973

Mr. HART (for himself, Mr. CHILES, Mr. EASTLAND, Mr. ERVIN, and Mr. MAGNUSON) introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To protect the flow of interstate commerce from unreasonable damage to the environmental health by assuring an adequate supply of chlorine and other chemicals and substances which are necessary for safe drinking water and for waste water treatment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Chlorine Allocation Act of 1973".

FINDINGS AND POLICY

SEC. 101. (a) The Congress finds that—

(1) there is a national shortage of chlorine for safe drinking water and waste water treatment purposes;

(2) this shortage has resulted in an uncertainty in

the procurement of chlorine by municipalities and other persons;

(3) many municipalities may be forced to terminate chlorination due to this shortage; and

(4) the termination of such chlorination presents a real and substantial threat to the public health.

(b) It is the policy of the Congress to require priority dispersal of chlorine for the treatment of safe drinking water and waste water and to encourage priority dispersal of other chemicals and substances necessary for the treatment of safe drinking water and waste water.

DEFINITIONS

SEC. 102. (a) As used in this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "Municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law and having jurisdiction over the supply of water to the public or to an Indian tribe or an authorized Indian tribe organization.

(3) "Person" includes a State or political subdivision thereof, municipality, corporation, partnership, association, private or public nonprofit institution, or an individual.

(4) "Chemicals" and "substances" means activated carbon, lime, ammonia, soda ash, or any other chemical or sub-

stance used in the treatment of drinking water or waste water.

(5) "Protect the public health and environment" means to protect against any unreasonable threat to human health or the environment resulting from the use or distribution of chlorine, chemicals, or substances.

(6) "Waste water" means any discharge from municipal, industrial, or other sources into to the natural waters of the United States.

(7) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

ALLOCATION OF CHLORINE AND OTHER CHEMICALS AND SUBSTANCES

SEC. 103. (a) Within thirty days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Commerce, shall promulgate regulations providing for mandatory allocation of chlorine from the processing of chlorine to its final use in amounts specified in such regulations to the extent necessary to protect the public health and environment. If necessary, the Administrator is authorized to promulgate regulations providing for mandatory allocation of other chemicals and substances used in the treatment of drinking water or waste water. The Administrator shall promulgate regulations for the allocation of other chemicals

and substances only after he investigates the situation and determines that such chemicals or substances are in short supply and allocation of such chemicals or substances is necessary to protect the public health and environment.

(b) Any allocation under subsection (a) shall apply to all chlorine, chemicals, or substances processed in the United States or imported into the United States at any time.

(c) Whenever the Administrator finds that any person does not comply with any regulation or priority established under this Act, he is authorized to issue an order enforcing compliance. Any order issued under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code.

ALLOCATION PROCEDURE AND STANDARDS

SEC. 104. (a) The regulations and allocations under section 103 shall be promulgated pursuant to section 553 of title 5, United States Code, except as provided in section 105.

(b) The Administrator is authorized, for the purpose of carrying out this Act, to hold hearings, to receive evidence, to administer oaths to witnesses appearing before him, to gather information from, to require reports from, and to inspect records and physical facilities during reasonable hours of any processor, distributor, importer, repackager or other

provider, of chlorine, or other chemical substance which may be allocated under section 103.

(c) (1) The Administrator is authorized to issue regulations, pursuant to section 103, for performance under existing contracts for the processing, distributing, repackaging, or providing of chlorine or other chemical substance. Such regulations shall be designed to protect the public health and environment.

(2) Allocations, regulations, or performances under existing contracts under section 103 shall be equitably distributed to the extent possible among all processors, distributors, repackagers, other providers, or importers of chlorine or other chemical or substance.

(d) The Administrator shall consult with the Office of Preparedness of the General Services Administration, the Department of Commerce, and the Department of Health, Education, and Welfare to determine the quantities and proper allocation of chlorine or chemicals or substances under section 103.

IMMINENT HAZARD

SEC. 105. (a) An imminent hazard shall be considered to exist when the evidence is sufficient to show that shortages of chlorine, chemicals, or substances for treating drinking water or waste water will result in any unreasonable

threat to human health or the environment prior to the completion of an administrative hearing or other formal proceeding held pursuant to this Act.

(b) If the Administrator has reason to believe that an imminent hazard exists he may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to impose allocations as is authorized under section 103 of this Act. The Administrator shall simultaneously, if he has not done so, propose any regulation which may be warranted under section 103 or 104 of this Act.

RESPONSIBILITY FOR ALLOCATION PROGRAM

SEC. 106. Within thirty days after the enactment of this Act, the Administrator, in consultation with the Secretary of Commerce, shall promulgate regulations delineating which functions under this Act shall be performed by the Environmental Protection Agency, the Office of Preparedness of the General Services Administration, the Department of Commerce, or the Department of Health, Education, and Welfare.

SEC. 107. The Administrator, in consultation with the Secretary of Commerce, shall prepare and submit to the Congress, within thirty days after the date of enactment of this Act, a report reviewing by State (1) the number of drinking water and waste water treatment facilities with projections for 1974 and 1975 on the minimum amount of

chlorine and other chemicals and substances needed by type of use to preserve the public health; and (2) the number and capacity of chlorine processors, distributors, importers, repackagers, and other providers.

ENFORCEMENT

CRIMINAL PENALTY

SEC. 108. (a) Whoever willfully violates any regulation under this Act or willfully fails to comply with any order issued pursuant to section 103(c) shall be fined not more than $10,000 for each day of violation or failure to comply or imprisoned for not more than one year, or both.

Civil Penalties

(b) (1) Whoever violates any regulation or fails to comply with any order issued pursuant to this Act shall be subject to a civil penalty of not more than $5,000 for each day of violation or failure to comply.

(2) Whenever the Administrator believes that any person engages in or has reason to believe will engage in any act which the Administrator believes constitutes a violation of any order or regulation issued pursuant to this Act, he is authorized to petition the United States district court having jurisdiction to issue an injunction or temporary restraining order to enforce the provision of such order or regulation.

(c) The district courts of the United States shall have jurisdiction over violations under this Act.

CITIZEN CIVIL ACTIONS

SEC. 109. (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including the United States or any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) alleged to be in violation of any regulation or order promulgated under section 103 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to fifteen days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator of the regulation or order, or

(B) if the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the regulation or order: *Provided*, That any person may intervene as a matter of right in any such actions;

(2) under subsection (a) (2) of this section prior to fifteen days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class or persons) may have under any other statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

(f) When any actions brought under this section involving the same defendant and the same issues of violations

are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

ANTITRUST PROVISIONS

SEC. 110. (a) Except as specifically provided in this section, no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13. 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator shall establish such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all

cases shall be chaired by the Administrator. The meetings of such committees shall be open to the public.

(2) Any such committee shall consist of members, appointed by the Administrator, who shall represent the following interests: the chlorine and other chemicals and substances industry, including but not limited to processors, distributors, importers, repackagers, and other providers.

The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting of such committees and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of section 552 (b) (1) and (b) (2) of title 5, United States Code.

(d) Within thirty days after the date of enactment of this Act, the Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards, and procedures by which persons engaged in the business of processing, distributing, importing, or repackaging of chlorine or other chemical or

substance allocated under section 103 may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the chlorine or other chemicals or substances industry and of industrial, municipal, and private consumers, and shall in all cases be chaired by a regular full-time Federal employee.

(2) meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(3) interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings;

90-224 O - 82 - 66

(4) a full and complete verbatim transcript shall be kept of any meeting, conference, or communication held to develop, implement, or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b) (1) and (b) (3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences, or communications from the requirements of subsection (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference, or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference, or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission

and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anti-competitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission twenty days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor to development, implementation, and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and

fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to the development, implementation, or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing, or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or

criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of processing, distributing, importing, or repackaging of chlorine or other chemical or substance allocated under section 103 that—

(1) Such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) The provisions of section 708 of the Defense Produc-

tion Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act.

(l) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

TERMINATION DATE

SEC. 111. The provisions of this Act shall terminate on June 30, 1975.

APPROPRIATIONS

SEC. 112. There are authorized to be appropriated such funds as are necessary to carry out the provisions of this Act.

EXCERPT FROM THE PRESIDENT'S STATE OF THE UNION MESSAGE TO THE CONGRESS ON NATURAL RESOURCES AND THE ENVIRONMENT, FEBRUARY 15, 1973

* * * * * * *

CONTROLLING POLLUTION

We have made great progress in developing the laws and institutions to clean up pollution. We now have formidable new tools to protect against air, water and noise pollution and the special problem of pesticides. But to protect ourselves fully from harmful contaminants, we must still close several gaps in governmental authority.

I was keenly disappointed when the last Congress failed to take action on many of my legislative requests related to our natural resources and environment. In the coming weeks I shall once again send these urgently needed proposals to the Congress so that the unfinished environmental business of the 92nd Congress can become the environmental achievements of the 93rd.

Among these 19 proposals are eight whose passage would give us much greater control over the sources of pollution:

* * * * * * *

—*Safe Drinking Water.* Federal action is also needed to stimulate greater State and local action to ensure high standards for our drinking water. We should establish national drinking water standards, with primary enforcement and monitoring powers retained by the State and local agencies, as well as a Federal requirement that suppliers notify their customers of the quality of their water.

* * * * * * *

RICHARD M. NIXON.

APPENDIX A
ADMINISTRATION TESTIMONY AT
1972 HEARING

POTABLE WATERS

HEARING

BEFORE THE

COMMITTEE ON COMMERCE
UNITED STATES SENATE

NINETY-SECOND CONGRESS

SECOND SESSION

ON

Amendment 410 to S. 1478

TO AMEND THE FEDERAL HAZARDOUS SUBSTANCES ACT, AS AMENDED, AND FOR OTHER PURPOSES

MARCH 20, 1972

Serial No. 92–57

Printed for the use of the Committee on Commerce

U.S. GOVERNMENT PRINTING OFFICE
78-238 WASHINGTON : 1972

POTABLE WATERS

MONDAY, MARCH 20, 1972

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met at 10:05 a.m., pursuant to notice, in room 5110, New Senate Office Building, Hon. William B. Spong, Jr., presiding.

Present: Senators Moss and Spong.

OPENING STATEMENT BY SENATOR SPONG

Senator SPONG. The hearing will come to order.

This morning the subcommittee on the environment will examine the need to strengthen the Federal regulation of drinking water.

Senator Hart normally occupies this chair during subcommittee hearings. For the purposes of today's activities, however, he has relinquished the chair. I regret that he cannot be here.

The subject of drinking water is a facet of environmental quality which has, for the most part, escaped public and governmental scrutiny. As we will learn later on this morning, our present concern has been much too long in coming.

In mid-1970, what is now the Water Supply Programs Division of the Environmental Protection Agency completed a study of 969 drinking water supply systems. The results were alarming.

Forty-one percent of the systems failed one or more of the recommended or mandatory limits for contaminants. Three-quarters of the operators of treatment plants were improperly trained, and state programs of surveillance and control were found to be weak.

In short, to quote Mr. Ruckelshaus of the EPA in hearings before the House last year, ". . . the study pointed out that some state and local governments are not giving adequate attention to the job of supplying safe drinking water to their citizens."

The study was published in July of 1970 and Mr. Ruckelshaus' statement before Mr. Rogers' House subcommittee occurred last May. At that time, Mr. Ruckelshaus stated that the EPA could not support legislation, but that the Agency was identifying what changes would be necessary in the Federal program.

We will be most pleased to learn of the progress of those studies and what recommendations EPA now has to give us.

Staff member assigned to this hearing: Michael B. Brownlee.

Senator SPONG. With that said, let me welcome Mr. Robert Fri, Deputy Administrator of the Environmental Protection Agency. I understand that Mr. Fri will be accompanied by Mr. James McDermott, who is Director of the Water Supply Programs Division of EPA.

Good morning, gentlemen.

STATEMENT OF ROBERT W. FRI, DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, D.C.; ACCOMPANIED BY JAMES H. McDERMOTT, DIRECTOR, WATER SUPPLY PROGRAMS DIVISION

Mr. FRI. Good morning, Mr. Chairman. James McDermott is on my left.

I am pleased to have the opportunity to appear before this committee to testify on EPA's program for the protection of drinking water and to discuss amendment 410 to S. 1478, the proposal relating to that program.

Mr. Chairman, with your permission, I will read this statement and in the interest of focusing on particular aspects, I will make some amendments as I go.

The Federal Government's responsibility for protecting drinking water is centered in the Environmental Protection Agency, which inherited this authority from the Department of Health, Education, and Welfare in 1970.

Historically, this program has been based on the Federal responsibility for preventing the spread of communicable diseases in interstate commerce, pursuant to the Public Health Service Act.

Under this Act, EPA enforces regulations which preclude interstate carriers from utilizing water from sources which have not complied with certain required drinking water standards.

Regulations adopted under that authority are used to enforce standards for those systems which serve interstate carriers; presently, this enforcement authority applies to only 665 out of an estimated 30,000 public water supply systems serving both large cities and small towns and applies only as such water is used by interstate carriers.

Under that authority drinking water standards have been established. These U.S. Public Health service standards, last revised in 1962, contain certain mandatory limits as well as recommended limits concerning physical characteristics and chemical and biological constituents affecting the quality of the water. Our regulations concerning drinking water also deal with requirements for effective control programs to limit the future risk potential or of structural or operational defects of water supply systems.

Violation of the mandatory aspects of the standards lead to prohibition of the use by interstate carriers of water drawn from that system pending the application of additional treatment or the development of an additional drinking water source.

The standards impose these mandatory limits on levels of coliform bacteria, arsenic, barium, cadmium, chromium, cyanide, lead, flou-

ride, selenium, and silver intake which can clearly affect the health of the user.

In addition, the standards recommend limits on certain physical characteristics and chemical constituents of drinking water which are primarily of aesthetic concern in that they impart undesirable taste and odors to the water, cause discoloration of plumbing fixtures and the like.

Since the jurisdiction of our existing program is limited to those water supply systems serving interstate carriers, our enforcement covers only half of the 160 million people served by community water supply systems. We would point out, however, that most large cities and the States use the standards in regulating the quality of their drinking water supplies.

Mr. Chairman, you have summarized the problem quite accurately in your opening statement. Let me simply reiterate some of the findings of our studies.

An extrapolation of the community water supply study, a field inspection and evaluation of 969 community water supply systems conducted by HEW in 1970, indicated that approximately 5.4 percent of the national population or 8 million people are served water that is potentially dangerous in that it fails to meet the mandatory standards set by the Federal Government.

These 8 million people receive unsafe water from an estimated 5,000 of the Nation's community water supply systems surveyed in the community water supply study. In the majority of cases these deficient systems are smaller systems serving smaller communities.

In terms of public health impact, the national health figures indicate that during the 10-year period from 1961 to 1970, there were at least 128 known outbreaks of diseases or poisoning attributed to drinking water.

As important as the current safety of this country's water supply system is, the fact remains, that many of our Nations water supply systems are subject to potential problems because individual systems contain structural or operational defects, because they are manned by improperly trained personnel, and because many State and local control programs are inadequate.

From this brief description of where we stand today, several deficiencies clearly emerge in the overall national approach to providing safe public drinking water supplies. First, the application of federally enforceable standards is not broad enough to cover all community water systems. Second, State and local control programs, because of deficiencies in their planning, training, and enforcement activities, are not providing adequate regulation of local water supply systems. Finally, from a reliability standpoint, many of the systems themselves are not capable of delivering drinking water of acceptable quality on a continuing basis because of their lack of adequate facilities and sufficient numbers of trained personnel.

We believe the major responsibility for correcting these problems must remain on the State and local level. However, in view of the shortcomings which we have found in our studies, and which we have enumerated for you today, we have concluded that Federal legislation is needed to address certain aspects of the overall situa-

tion. As a result, we are recommending to the committee what we believe to be the essential ingredients for legislation to correct the problems of providing safe, reliable supplies of drinking water.

Such legislation should, in our view, contain the following elements:

1. The Administrator should be authorized to set national drinking water standards, which would be addressed to all health related aspects of drinking water. These standards would limit the chemical, biological, radiological, or other health related contaminants that might appear in drinking water. The standards would also include requirements for the operation and maintenance of water supply systems insofar as necessary to assure achievement of the health related limits I have described. We believe that the setting of such standards should be a Federal responsibility because standards needed to protect public health do not vary with locality and the Federal Government can bring greater resources to assess the complex health and technical aspects involved.

2. The application of such standards should be clearly limited to drinking water supplied, and not to raw water sources. Extending the purview of standards beyond the goal of upgrading the quality of drinking water and supply systems would be a duplication of the provisions of the Federal Water Pollution Control Act, under which standards have already been established and would continue to be established relating to such raw water sources.

3. In addition to the national standards which related to health aspects, we believe that EPA should develop and publish recommended limits relating to other constituents and characteristics affecting drinking water, such as taste, odor, and color. I would emphasize that these would be recommended limits as distinguished from the standards which specify mandatory limits. Such recommended limits are helpful as guidelines for States and localities to set out desirable characteristics for which they should strive for their public drinking water supplies even though a health risk is not involved.

4. The primary enforcement responsibility for drinking water standards, in our opinion, should lie with the States and localities. Federal authority to enforce the drinking water standards should come into play only if the States and local governments fail to act. Primary responsibility for assuring safe drinking water now rests with State and local government, and that is where we are convinced it should remain. The difficulties that we have identified with the national programs of drinking water do not stem from the present roles of respective levels of government but rather from inadequate coverage of enforceable Federal standards and from inadequate State and local programs. The solution of these problems would not, in our opinion, be effected by changing the roles of Federal or State Governments in this area, but by assuring the enforcement of national standards and by strengthening State and local programs. In order for enforcement to be effective, a dual requirement should be included which would provide in cases where substantial adverse health risks are involved for immediate notification first, to State authorities and, through the States, to the Ad-

ministrator and second, and most importantly perhaps, to the users of the water supply system. Such notice should include the extent and nature and possible health effects of such noncompliance with national standards and the remedial measures which will be taken to correct the problem. Additionally, in cases where the State or locality fails to take prompt remedial action, the Administrator should have authority to institute administrative orders as appropriate to regulate the uses of the water supplies in question, prohibit new connections, regulate the source of contamination or prohibit delivery of contaminated water.

5. Each water supply system authority should have to report regularly—at least annually—to the State agency regarding the quality of water delivered. The States should also have to report to the EPA annually regarding the quality of water delivered by each system in the State. Such a reporting system is important because it would provide continuing and pertinent information as to contaminant level, and operation, and maintenance procedures of the individual water supply.

6. States and localities should develop strong programs of surveillance, enforcement, technical assistance, training, and long-range planning. We see a Federal role in this regard directed toward the provision of research and technical assistance in those areas that are beyond the capabilities of the States.

7. Any drinking water legislation should clarify that the Administrator continue to be authorized to promote and conduct research into all aspects of water hygiene. We believe such research is necessary to provide the scientific data and methodology that will enable the Federal, State, and local entities involved in the supplying of drinking water to effectively perform their respective responsibilities.

Mr. Chairman, it appears that many of these elements, which we consider necessary in any Federal drinking water legislation, are provided in Amendment 410 to S. 1478.

Let me depart from my prepared statement at this point, however, to suggest one improvement in that amendment which we think is most important. It seems clear to us that adequate notice of failure of the drinking water supply system to produce water of adequate quality should be provided to both the state agency and the Administrator but more importantly, to the public that uses the drinking water. Therefore, we think that an adequate piece of legislation should contain the following kind of procedure which I have partly alluded to in my prepared remarks.

First of all, it seems to us that there should be Federal standards or regulations for the surveillance or monitoring of water supply systems. These standards would indicate the minimum requirements for the frequency of samples, the constituents to be tested and the like. The water supply system in our judgment should be required on the basis of these samples to notify its users either of the failure of the system to meet those standards, if that is the case, or, if the system does not perform adequate surveillance, of the failure of the system to do the monitoring that is required of it. This requirement would enable the people who use the water to be fully cognizant, not only of the quality of the water that they are drinking, but also

the steps that are being taken by the local system to insure that deviation from the national standards are adequately detected. The data so collected as well as an indication of what notice has been given should be provided in the annual reports to the state agencies and the administration to which I alluded earlier. We believe that this thread of monitoring, notice, and reports is essential to drinking water legislation at the Federal level.

Returning now to the prepared statement, we do have some difficulties with a few aspects of the amendment. We do not believe that program grants as suggested in section 302(m) are necessary or desirable. We prefer that enforceable Federal standards coupled with adequate monitoring requirements would serve to stimulate improved local programs, and it is because we believe so strongly that the public, the individual citizens, should be apprised of the problem that we believe citizen action will require the resources to be mobilized at the state and local level to insure that high quality drinking water is supplied.

Secondly, we feel that the standards published pursuant to section 302(a) of that amendment should not apply to the raw water source of drinking water supply. In the same regard, the "National Water Hygiene Standards" of section 302(b), which relate to various undesirable substances in lakes, rivers, streams, bays, inlets, or other inland and coastal waters are, in our view, an inappropriate requirement. These two provisions are duplicative of, and in possible conflict with, the provisions of the Federal Water Pollution Control Act and its amendments now pending before the Congress. Under that act, water quality standards have been established for various surface waters. Those standards specifically address water to be used as drinking water supply. Multiple inconsistent standards directed to the same end are not only unnecessary, they would in all likelihood thwart both the solution to the drinking water as well as the pollution problem.

We also have some difficulty with section 302(j) of amendment 410 which would establish a "National Water Hygiene Advisory Council." We would prefer not to have such a body created by statute and feel that it would limit the administrative flexibility so necessary to properly perform our responsibilities.

That concludes my prepared statement, Mr. Chairman.

I would be happy to answer any questions that you might have.

Senator SPONG. Thank you very much, Mr. Fri. At hearings last May before Congressman Rogers' House subcommittee, the subject of viruses in drinking water was raised. The record of that hearing reveals that if present in drinking water, viruses could be cause for grave concern, but that the art of detecting them was at a primitive stage. Has our ability to detect viruses increased since last May, and, if so, have you found any viruses in the drinking water supply systems of this country?

Mr. FRI. There has been research work going forward on that subject, Mr. Chairman. I will let Mr. McDermott comment as to the specifics in a moment. It remains difficult to detect viruses. We have done some work on samples with fairly sophisticated equipment which would bring the samples to a central location where that

equipment is available, and we have detected viruses in some water supplies beyond the level which we think we would like to see if we were to set a national standard for viruses.

This is a very important, and as you know, a very difficult and complicated matter of scientific research, one on which we are trying to move forward.

Senator SPONG. I take it your answer to my question would be that the detection methods have improved but very little, and, secondly, that you have found viruses in drinking water supplies?

Mr. FRI. That's right. What we are looking for in detection methods here is a detection method which could be used successfully by 30,000 water supply systems and which hopefully requires a relatively simple and straightforward piece of analytic equipment. To my knowledge, we haven't come up with that simple a piece of equipment. It can be done with more sophisticated, fairly expensive equipment, like electron microscopes.

Senator SPONG. Thank you. Would you now elaborate on what Mr. Fri has said?

Mr. MCDERMOTT. Certainly. We have essentially two problems here. The first is the ability to capture a sample of the virus. The second problem is how do you analyze for what we have termed a needle in the haystack, in that we do not really expect substantial concentrations of virus in drinking water.

At the present time there is no operational technique that can be broadly applied to the Nation's water supply systems. As you noted, we are in the process of conducting research to develop the improved techniques, both to capture and to identify viruses. We would emphasize that this is a research project, and we are still in the midst of it.

In fact, we are in the process of redesigning some of our experiments at the present time. But, yes, we have found viruses in drinking water in at least two out of three cities that we have investigated. These are well-run systems, practicing good treatment of water drawn from surface water sources.

Senator SPONG. Are these the systems in Massachusetts that there has been some report about in the press?

Mr. MCDERMOTT. Yes, sir. We have looked at two systems in Massachusetts, and one in Connecticut.

In the case of the Connecticut system, we found virus neither in the 10 raw water samples nor in the 10 finished water samples after treatment. In large measure, we suspect this has to do with the excellent raw water quality of the source.

On the other hand, in two communities in Massachusetts, we found five positive samples out of 32 in the distribution system of one community and two positive virus samples out of 32 in a second community or roughly 9 percent of the overall distribution system analysis that we performed.

Senator SPONG. Were these the first discoveries of viruses in treated drinking water in the United States?

Mr. MCDERMOTT. This was the first in the United States, to the best of our knowledge, sir. There have been scattered reports overseas on occasions and there have been situations in which viruses

have been identified in well water systems serving restaurants and other types of establishments. However, the scope of our study is quite different. We are investigating community water supply systems supplied by good water treatment plants in the current context of our technology, involving coagulation, sand filtration, and disinfection. Frankly most of our community drinking waters are not treated to this extent. At least half the people of the country are served by ground waters which should not contain virus, unless there has been contamination of the ground water.

Senator SPONG. What are the diseases caused by the viruses that you have discovered?

Mr. MCDERMOTT. We have identified three virus families, specifically, echo virus, rheo virus, polio virus in these several systems. There are well over 100 different species of enteric viruses for which one might look. Echo can be involved in diarrhea, flu symptoms, the grippe, vomiting. These symptoms are not unusual. The rheo virus has not been typed as to disease systems, but it is suspect because it is known to be of enteric origin, and in all likelihood it is also contributing to certain levels of disease.

Polio, on the other hand, is quite prevalent in our raw water resources for the simple reason that most people are innoculated with the polio vaccine and subsequently shed virus in their waste. We aren't particularly concerned about the polio in that most people are innoculated, but it does suggest that perhaps the polio virus would be a good indicator organism for monitoring the effectiveness and efficiency of our water treatment processes.

Senator SPONG. How about meningitis?

Mr. MCDERMOTT. Yes, viral diseases are involved in several types of meningitis. Certainly infectious hepatitis is also a virus. Unfortunately, we do not know how to identify a hepatitis virus in the laboratory, so we do not know how to look for it in the environment. That would be the other way of answering the question.

Senator SPONG. Are the two communities in Massachusetts where you have found this Billerica and Lawrence?

Mr. MCDERMOTT. Yes, sir.

Senator SPONG. On a percentage basis how many people in the United States are exposed to water supplies and treatment similar to the two cities where viruses have been detected?

Mr. MCDERMOTT. Approximately half the population or roughly 80 million people are served by community systems that draw upon surface water sources. The very limited data we have at this point would suggest that where the raw water quality is good and effective treatment is being practiced, we need not be too concerned about finding virus in the distribution system. Thus, I would hazard a guess and say perhaps that about 25 percent of the total national population, 40 million people are exposed to circumstances similar to those under investigation in Massachusetts. However, at this point, sir, let me state that, yes, we have found virus but this is a precursor to the epidemiological work needed, to draw the correlation between drinking water quality and the prevalence of virus and disease within the community, as well as to conduct the work on process research to find out how to make existing processes more effec-

90-224 O - 82 - 67

tive so we can come up with a documented virus standard. This is not just a question of physical facilities. It could be improvement in the operating procedures through the training of the personnel—the whole quality control program.

Senator SPONG. You have already mentioned that viruses have been found in untreated supplies.

Mr. MCDERMOTT. Yes, sir. We have found viruses throughout the aquatic environment wherever we have looked. Approximately 30 percent of the fresh water and salt water samples analyzed to date have show virus of one type or another with the concentration depending upon the prevalence of pollution.

Senator SPONG. In your statement, you make a point, and I am inclined to agree, that the primary enforcement responsibility should lie with the states. However, on page 9 you say that Federal enforcement should ensue only if substantial adverse health risks are involved and the state or locality has failed to take action. I am wondering why we should tolerate any adverse health risk if the state or locality has failed to act. Under our air and water pollution laws we give primary enforcement authority to the states; but if any violation occurs, the Federal government is authorized to step in if the states do not act. Is there any distinction here?

Mr. FRI. I think the principle involved is the same, Mr. Chairman. We are talking about substantial adverse health risks in terms largely of the failure to meet the national health-related standard. There is, in the case of drinking water, some components that will adversely affect health in the long term—heavy metals which will buildup slowly—which do not in the same sense as, say, the Birmingham situation in air, represent an imminent hazard which requires essentially instant action. I suppose there is a distinction here which suggests that the Federal government ought not to rush in at 24-hour periods and close down water supply systems due to any given violation of the standard.

Basically, what we are talking about is asserting Federal authority if the state fails to take appropriate action for the specific component of the national standard of which it is in violation and which needs to be corrected.

Senator SPONG. Are you talking about any violation?

Mr. FRI. I am referring to a violation of the health-related standard. If the State or local government fails after the process of notification to take action, it seems to me that if they are not going to act, then the Federal government should step forward to do what it can to see that remedial action is taken. I think our preferred course in some cases would be to urge the State or locality to move along, but if all else fails, we would act.

Senator SPONG. Do you think there should be a prior determination that a substantial adverse health risk is involved?

Mr. FRI. I think the simpler course is to establish the violation of the national drinking water standard, to insure that notice is given to determine what the State is doing about it, and then for the Federal government to move in the appropriate way. Once you have set a standard which is meant to protect the public health, unless you are in a crisis situation which requires immediate action, and

such cases do occur, fooling around with the determination of substantial adverse kinds of words is not necessarily germane. When there is a crisis situation, such as occurred in Riverside, Calif. 3 years ago, where there is clear and present danger, or imminent hazard, call it what you may, a very quick Federal action would be required if a State does not or will not act.

Senator SPONG. I worked on both the air pollution legislation and the water pollution legislation when I was on Public Works, until a year ago, and I am taking a page from your book in arguing about standards that may conflict with each other. I don't want procedures to be different where they don't have to be. It occurs to me that in the case of drinking water or air quality or water quality, if we make the procedures as nearly the same as we can, there will be less confusion. I would hope so. I would appreciate your view on it.

Mr. FRI. In the main, I would agree, Senator. There are close parallels involved, although there also are some differences.

Senator SPONG. Amendment No. 410 makes no distinction between water used for interstate carriers and other public water supplies as to the enforcement of standards. Currently, the Federal Government is authorized to enforce directly prohibitions against interstate carriers transporting contaminated drinking water. Should the responsibility for interstate carriers remain with the Federal government, or should it shift to the State?

Mr. FRI. It would seem to me that the responsibility for preventing the use of contaminated waters by interstate carriers, although I really hadn't thought of changing it, would therefore continue to reside with the Federal government. Our problem is less with the adequacies of that authority in terms of protecting people in interstate carriers, than it is with that authority as a basis for our regulatory standard setting procedures.

Senator SPONG. I have some more questions, but I wonder if Senator Moss would like to ask questions at this time.

Senator Moss. Thank you, Mr. Chairman. I have just one or two.

Following up on what you have been saying about viruses, that viruses have been detected in low quantities in waters in some areas, are the quantities so low that we should not be concerned about those viruses, or are they of sufficient volume that we should be concerned?

Mr. FRI. I think, Senator, if I may answer that question first, we are concerned to the extent that we are doing the research work necessary both to determine what sort of a standard ought to be set, and to determine what kind of process technology is required to bring the viral count down to that level of standard.

I don't think, and Mr. McDermott can comment on this, that our data thus far suggests the need for—I will overstate this—panicky kinds of actions, but they do suggest clearly the need for concern. We are trying to move within the context of our regulatory program to do something about the problem.

Senator Moss. Do you have power to do something about it now other than study further?

Mr. FRI. Under the Public Health Service Act we have the power to establish a standard for viruses which we could enforce only to

the extent that waters so contaminated would not be used by interstate carriers, which isn't very wide-ranging authority. As I pointed out, it is protective of less than 1,000 of the 30,000 systems that are supplying water to the general public.

Senator Moss. It is my understanding that the EPA sets standards for drinking water on interstate carriers, but that Food and Drug must enforce the standards. Is that correct?

Mr. FRI. Strictly speaking, that is so, yes. We establish the standard, determine the violation, and Food and Drug notifies the interstate carrier and actually enforces the prohibition. As a practical matter, we also find ourselves having a very strong tendency to notify the carriers and the State or locality involved in the problem as soon as we detect it.

Senator Moss. Wouldn't it be simpler if it were all in one agency?

Mr. FRI. Simpler, I suppose.

Senator Moss. If you are determining the standard, and then you have to hand it over to them to enforce it, it seems to me that that is complicated and probably fraught with chances for delay.

Mr. FRI. It can be. We have some programs which are arranged that way. For example, the Coast Guard is the enforcement agency on some oil spills in our water pollution program. It depends heavily on who is best equipped to enforce against a particular entity.

As a matter of course, the FDA deals more with interstate carriers than we do and when it comes to actually working with the carrier and inspecting what is on the carrier, FDA tends to be better set up to do it as part of its normal responsibility. I don't know as a practical matter that there is that much confusion.

Senator Moss. Would the amendment we are discussing here this morning be helpful in clearing this up in any way?

Mr. FRI. This amendment would be most helpful, not so much in clearing that up, but in clearing up the question of how do you get at the system itself. Right now the Federal Government really doesn't have much, if any, authority to move against the water supply system that is causing the problem. All we can do is say that the water cannot be used by an interstate carrier.

It seems to me the more important problem is to get at the problem rather than simply not permit the use of water by some selected carriers.

Senator Moss. I know there are some problems with bottled water. There was a story in the Star last July describing bottled water with bacterial counts up to 75 times that found in the highest tap water sampled in the Washington area. It is my understanding that EPA is now conducting a study of bottled water. Are there any results from that study?

Mr. FRI. I will let Mr. McDermott give you some of the initial results. We have conducted some initial studies in bottled water. We have found in the samples that we have collected that there is some relatively minor infraction of the standards involved. More importantly, the operating and sanitary conditions of the plants that are bottling the water appear to need improvement.

But in terms of the actual water itself that is put in the bottle, our samples suggest relatively minor infractions in most cases.

Do you want to comment on the specifics, Jim?

Mr. McDermott. Yes. The report is still in preparation, sir, so we cannot give you a final report at this time. However, on the other hand, as Mr. Fri has said, the water quality deficiencies were relatively minor. On the other hand, we have to realize this was an examination of only 25 of several hundred bottling works.

Generally speaking, the larger plants were providing the best quality and had the fewest health risk problems associated with the bottling process. The smaller plants had quality deficiencies and/or evidenced the greatest number of health risk problems with the bottling facilities, the physical facilities, and the attitude and experience of the workers.

There was also one common deficiency: Very few of these plants were analyzing the water that they were distributing. If any chemical and bacteriological analyses were being performed, they were being performed by the larger plants and then only occasionally. So there is this very real question of what is being placed in the bottle and what is being shipped to the consumer.

Senator Moss. Does the FDA retain some authority over water quality standards for bottled water?

Mr. Fri. Yes, I suppose they do as to standards under the general provisions of the Public Health Service Act. Additionally and importantly, bottled water is kind of a manufactured product, although there is not much manufacture involved, and the FDA, far more than we, is in the business of going into a plant, determining the sanitary conditions, and establishing whether proper practices are being followed and proper sampling analysis is being done of the product.

We have not worked this out or talked with FDA much on the subject, but as I understand it, their enforcement authority would extend to these kinds of things. Again they are pretty well set up to do this while we are less in the business of going into a plant, determining sanitary conditions, and so forth.

Senator Moss. This looks like another example of divided jurisdiction, doesn't it?

Mr. Fri. Yes, it is.

Senator Moss. Thank you very much. I appreciate your answers and your testimony.

Thank you, Mr. Chairman.

Senator Spong. I want to return to the virus subject for just one more question.

A very small number of virus particles constitutes an infectious dose. Would it be true to conclude that if the virus can be detected in a water supply, then it could cause disease?

Mr. McDermott. Virologists feel that one plaque-forming unit, that is, one viral particle that grows in the laboratory media does constitute an infectious dose. I think we have to make a distinction here, and this is partial response to your question, Senator Moss, between infection and disease. The diseased person manifests a variety of symptoms and really recognizes that he is sick, whereas an infected person has the material in his system, but doesn't necessarily show the symptoms of the disease. It has been estimated that of

every 100 to 1,000 people who are infected, only one will manifest the clinical symptoms of disease. However, it isn't quite as simple as these statistics suggest in that an infected individual can serve as a carrier, a source within the community, and transmit this disease to the people.

Further, there is the suggestion and the high probability that viral diseases are not self-limiting. That is to say that a pregnant woman could transmit a viral infection to the fetus, leading to delayed effects which might not show up for several years. This is of real concern to us as well. We are at the beginning of really finding out the significance of water born virus, and the best that we can do right now is to tell people that in our judgment, properly designed and properly operated treatment plants, subject to adequate surveillance and applying existing technology every day will provide the best safeguards that are currently available. I think the general health of the population would suggest that we have been doing a pretty good job but it is obvious from the community water supply study that we have got to do a better job, particularly in the smaller communities.

Senator SPONG. Was more than one particle found in the communities that we have been talking about in Massachusetts?

Mr. MCDERMOTT. This was an experiment, and we were trying to determine whether we had a method sensitive enough to find one particle, Senator. The experiment wasn't set up to determine how many plaque-forming units were present in each sample. We know we found at least one in each of these positive samples. Now that we have established that we can identify one virus in 20 liters of water, we will, as I noted, redesign the experiment to further refine the analytic technique involved. Then we will really begin to get a handle on this problem. As you noted, this was an initial breakthrough, in that it is the first time it has been done in the United States.

Senator SPONG. In your statement, Mr. Fri, you take exception to the presence of program grants in section 302(m) of the amendment. Do you object to grants to the States to operate their programs, as well as to grants for the construction of facilities?

Mr. FRI. Yes.

Senator SPONG. I am going to quote from page 16 of the EPA–CEQ issue paper. I quote: "We feel that Federal financial support should be provided to supplement to the extent practicable an increase in the level of State program funding, contingent upon the adoption of appropriate enabling and regulatory authority regulations, policies and procedures, and the development, implementation, and operation of effective programs."

EPA evidently felt this was necessary last summer. What has happened since then to change your position?

Mr. FRI. First of all, as to the subject of that issue paper, I have here a variety of issue papers which range in alternative formulations from no grant at all——

Senator SPONG. I have one or two.

Mr. FRI.——to very substantial grants, my point being that was a paper that surfaced as an alternative by the staff.

In reviewing the alternative, we concluded for two reasons basically that we do not support State program grants at this time. One is that we feel in this area, it is substantially a State and local responsibility. In the main, the resources should be mobilized at the State level. Secondly, as I am sure you know, Mr. Chairman, this administration has generally taken a stand that the more appropriate way to support a variety of State programs is through the revenue-sharing proposals that have been advanced by the President, rather than through a series of small categorical grant programs.

I think in this case, particularly as you look at the variation among the States in public versus privately operated water supplies, at the level of effort that the State is putting forward, and at the quality of the raw water the State is dealing with throughout the State, that the most appropriate way to approach this is as part of the total State responsibility. This responsibility can, and we believe should be, supported through the revenue-sharing approach; to the extent State funds are generally inadequate to do an awful lot of things.

Senator SPONG. You are telling me, then, that the change in opinion constitutes EPA judgment, and not something from the office of management and budget?

Mr. FRI. Yes.

Senator SPONG. But you are also in here today telling us that the States should be the ones to enforce the EPA standards. If we are looking to revenue sharing down the road, do you envision that whether the States use the money for this will be a matter of their option or will there be some directive to them? This is not an unfriendly question. I have been sympathetic to revenue sharing in principle, but the more I see of it, the more I think of the blind man and the elephant: It just depends on what part of the elephant you are touching what you think revenue sharing is.

Here we have an example where we are going to put forth legislation dealing with standards for water supply systems, and you and I agree that this should be done. I also agree with you that the States should have the responsibility for doing it. But I really want to know how, if they are going to enforce these regulations, we are going to be sure that they are adequately funded. You tell me revenue sharing.

Mr. FRI. That's right. We have gone through part of the community water supply study, and made an examination of how much money each State spends per capita and per system. There are terrific variations ranging from less than $100 per system to—the funny case is in the District of Columbia where it goes very high, $14,000 or something, but that is one system or a very few systems.

As a matter of fact, States which do very well, like Connecticut, have very low expenditures. Some States where we know we have got problems have expenditures very much above the mean. All of this suggests to me that although probably the overall financial effort is a little low, that there are so many variables involved that the wisdom of the categorical grant program and the ability of the categorical grant program to get the right amount of money to the right State to do the right kind of thing is going to be very limited.

Some States will have too much, and some will have too little. I prefer the notion of revenue sharing, which says that the Federal government has imposed a requirement and will step in if that requirement is not met and which makes available to the State a general fund for a variety of purposes. The State can insure that that requirement is met by applying the financial resources as it sees fit. It may, for example, impose a user charge if the State cares to, as a method of generating funds internally within the State for its State program activities. If it would prefer to go that route, rather than use something from the general fund, that is fine with me, too.

Senator SPONG. I am particularly interested in those provisions of the bill authorizing research on water recycling because of reports of possible water shortages in the metropolitan Washington area. Is EPA presently engaged in any research on the recycling of water?

Mr. FRI. We are involved in several areas, particularly in the water pollution aspect of the program. I will ask Jim to comment specifically from the water hygiene standpoint. Let me, however, support the concept of water recycling. As you look at available water supplies and available water usage for the next 50 years or so, it is clear that water supplies will tend to come from recycled water.

Senator SPONG. I have some figures here on that point. Our present consumption is 200 billion gallons a day, I am told. We have a supply available of 700 billion gallons a day. You mentioned, I believe, 30 years down the road. By the year 2020, I have that the projected use will be 1,300 billion gallons a day. Do those figures seem correct?

Mr. MCDERMOTT. Yes, sir; they are right out of one of our reports.

Mr. FRI. The ones I have in front of me.

Senator SPONG. What is the outlook in terms of financial feasibility of utilizing recycled water?

Mr. FRI. The financial feasibility of it?

Senator SPONG. Yes.

Mr. FRI. Give me a 20-year time program, that may be what we are talking about, and I would say it is not bad.

Mr. MCDERMOTT. There is no question that we are reusing water today. It is indirect reuse and the level of this indirect reuse is going to increase as we move into the future. The statistics that you cited earlier, Senator, were national statistics compiled to get people to face up to this fact, as the intensity of indirect reuse increases, we will move toward situations where direct recycling of sewage as a source of community water supply may be necessary. This is the sticky-wicket: drinking water standards are not capable of satisfying those types of situations.

Senator SPONG. Is EPA involved in any research on tapping ground water, particularly in areas facing shortages of surface water?

Mr. MCDERMOTT. Not to my knowledge, sir. This would water resource development type of investigation.

We certainly work in concert with the Corps of Engineers and the Geological Survey, and other Federal agencies in planning studies. For instance, we are working with the Corps and others on a regular

basis and have prepared a recent report on the metropolitan Washington area.

Senator SPONG. Are you aware of any investigation by any other Federal agencies on the possibility of utilizing ground water as a source of drinking water to a greater degree?

Mr. MCDERMOTT. Currently 50 percent of the population is being served by ground water.

Mr. FRI. My answer is no, I am not aware of the specifics. We have introduced this subject with the Corps in their waste water study, for example. We have looked at the question of ground water recharge as a method of waste treatment and at a lot of related kinds of projects, but I don't know specifically of a project in EPA directed toward the further exploitation of ground water as drinking water supply.

Senator SPONG. You don't know of any other agency?

Mr. FRI. No, we can check and provide a further answer for the record.

Senator SPONG. I would appreciate your doing that.

(The following information was subsequently received for the record:)

The Department of the Interior is the principal Federal agency charged with formuating and administering programs for the management, conservation and development of natural resources, including ground water. The major role in this regard is divided among several offices, bureaus and branches.

The Office of Water Resources Research administers the water resources research and training authorized by the Water Resources Research Act of 1964, as amended. OWRR does not maintain its own laboratories or perform "in-house" research. An estimated $12.4 million was budgeted for FY 1972 and FY 1973 for water resources research, investigations and experiments by grant assistance to States, independent educational institutions and private foundations, institutions or individuals. It is estimated that less than 10 percent of the total effort in water resource research is directed toward ground water.

The Geological Survey performs surveys, investigations and research to produce data and information relevant to the location, quantity and quality of ground water resources in the United States. Research emphasis is placed on increasing the understanding of fundamental principles of water occurrence, movement and interaction with its environment and also increasing the accuracy and usefulness of water data through improvements in technology. About $38 million was appropriated for water resource investigations in FY 1972. An additional $20 million in matching State funds was contributed by the States. Of the total $58 million about 25 percent is directed toward ground water problems.

The Office of Saline Water funds research and development of processes for converting saline water to fresh water. Basic and applied research, development and evaluation are conducted by means of contracts or grants to Federal and nonfederal agencies, institutions and private organizations or individuals. The FY 1972 appropriation for research is $5.9 million. It is estimated that about 50 percent of the total is used in the development of processes to utilize brackish ground water. An additional $200,000 is committed to preliminary research on hardware for use in desalination of geothermal water.

The Bureau of Reclamation, operating in 17 Western States and Hawaii, performs engineering and economic investigations of proposed Federal reclamation projects for the conservation and utilization of water and related land resources. In FY 1972 $10.5 million was budgeted for general engineering and research. None of these funds were directed towards drinking water research. However, a special project in the Imperial Valley of California was funded for $800,000. A 4,000 to 8,000 foot deep well is planned to tap hot geothermal brines. If the well is successful, the Office of Saline Water will collaborate in the project by installing a desalting plant in an effort to augment potable water supplies in the Colorado River Basin.

The Corps of Engineers, Department of Defense conducts comprehensive river basin studies and special studies to resolve unique or especially complex water resources problems. However, ground water investigations and research are usually confined to the needs of specific projects or are a part of routine civil works investigations.

The Department of Agriculture, Agriculture Research Service has directed a small amount of effort to ground water quality problems on small farm water supplies.

The Environmental Protection Agency budgeted $165 million in FY 1972 for research and development which included $53.4 million for water related research. Funding for ground water research amounts to $378,000 ($153,000 in-house and $225,000 grants or contracts), which relates primarily to prevention of ground water pollution. In addition, a small ($52,000) two-year contract has been awarded to develop comprehensive standards for water well construction. The need for these standards was determined in the Community Water Supply Study and studies of individual home or rural water supplies. It was found that poor well construction practices were the contributing factor in bacterial contamination of drinking water. The development of improved well construction standards for use by the well drilling industry, engineers, municipalities and Government agencies will be a positive step toward elimination of unsafe drinking water and will stimulate future utilization of ground water to a greater degree.

Mr. McDERMOTT. This is a basic responsibility of the Water Resources Division of the Geological Survey. They frequently conduct investigations to detect new sources, and I believe promotion is part of their responsibility. We are primarily concerned with the development and implementation of standards.

Mr. FRI. We will provide the answer for the record.

Senator SPONG. I understand what your responsibility is. We are trying to build a record on who is looking into this.

We thank you very much for your testimony here this morning.

APPENDIX B

COMMUNITY WATER SUPPLY STUDY

Significance of National Findings

Water Hygiene Division
Water Quality Office
Environmental Protection Agency
Reprinted April 1971
Washington, D. C.

(Previously printed as Bureau of Water Hygiene, USPHS, report dated July 1970.)

FOREWORD

The ecological crisis with which our Nation, and the world, are today confronted has been building for many years. Yet, for many, the magnitude of the damage which we have inflicted on our environment, in ignorance and carelessness, has come as a recent, stunning surprise. However, the urgency of our environmental problems can no longer be ignored or denied. President Nixon expressed the National mood about these sobering realities when he declared that "the nineteen seventies absolutely must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters and our living environment."

Of special concern is the fact that the waste products of our highly urbanized and technological society --- many of them not even identified --- which pollute our land, air, and water, persist in the environment, and react, one with another, in complex and little understood ways, to affect the life cycles of plant, animal, and human organisms.

Our water resources, more perhaps than any other, illustrate the interaction of all parts of the environment, and also the recycling process that characterizes every resource of the biosphere. Everything that man injects into his environment --- chemical, biological, or physical --- can ultimately find its way into the earth's water and these contaminants must be removed, by nature or by man, before the water is again potable.

Concern for our water quality until quite recently has centered principally on the danger of bacteriological contamination from inadequately treated sewage discharged into our rivers and streams. Today we are confronted with the fact that chemical pollution of source waters poses additional, and possibly even more difficult, problems. Moreover, we deceive ourselves if we assume that even the most complete and effective treatment of municipal and industrial wastes can ever remove all threats of water contamination.

In a world subjected to growing burden of interacting pollutants, many other sources of contamination exist, so that the quality and safety of our drinking water must finally depend upon constant vigilance and application of the best techniques of water treatment and distribution.

That only recently has attention been focused on the problems of maintaining safe drinking water is illustrative of the dangerous complacency with which we have viewed the whole spectrum of environmental ills. This report by the Bureau of Water Hygiene, Environmental Health Service, represents the first real attempt to determine, on a nationwide basis, the efficacy of current practices in water treatment and to assess future prospects for maintaining safe, high quality drinking water.

It may be concluded, on the basis of the survey findings, that, while the overwhelming majority of the people of the United States can be assured that the water they drink today is safe, several million drink water containing potentially hazardous amounts of chemical or bacteriological contamination. Clearly there is an immediate need, in many localities, for upgrading present water treatment and distribution practices.

Moreover, as in so many other aspects of our environmental situation, the findings are not reassuring with regard to the future. It seems abundantly clear that we will need, in the years ahead, to give increasing attention to the broad problems of water supply in order to assure the public of an adequate supply of safe drinking water on a continuing basis.

Charles C. Johnson, Jr.
Assistant Surgeon General
Administrator

SIGNIFICANCE OF THE NATIONAL COMMUNITY WATER SUPPLY STUDY

A Statement by the
Director of the Bureau of Water Hygiene

PREFACE

Contemporary American society recognizes a host of interrelated factors that determine the quality of urban life. In addition to the basic needs -- food, clothing and shelter -- we have recently begun to recognize two other daily necessities that were heretofore thought to be of unquestionable quality and available in unlimited quantities; ample quantities of clean air, from moment to moment, and safe drinking water, from hour to hour.

The Community Water Supply Study concerns the current and future healthfulness and dependability of the drinking water supplied to over 150 million Americans by community water supply systems. The remaining population drinks from private supplies. The purpose of the study was to determine the quality of drinking water being delivered to the over 18 million people in the study areas and the health risk factors that enabled scientists and engineers to evaluate the ability of these systems to continue to provide adequate supplies of safe water now and in the future. The Analysis of National Survey Findings of the National Community Water Supply Study (July 1970) is based on a survey of 969 representative public water supply systems located in nine areas of the Nation. This statement attempts to place the technical findings into a national perspective. It seeks to answer two questions about the nation's water supplies: (1) Are well established standards of good practice being applied to assure the quality and dependability of water being delivered to consumers' faucets today? and, (2) What needs to be done to assure adequate quantities of safe drinking water in the future on a National scale? While our study has helped provide answers to these important questions, not all the discussion that follows in this statement is derived solely from the results of this single investigation.

BACKGROUND

Americans generally assume that the water from their faucets is healthful, and free of bacterial or chemical contaminants that can bring disease. Usually, the assumption is correct. The drinking water supplies in cities and towns of the United States rank in quality, on the average, among the best in the world. Nevertheless, there is cause for serious concern about our drinking water. There are two good reasons for this paradox.

To begin with, it cannot be maintained that all of our drinking water is safe. It is true that the classical communicable waterborne diseases of years past -- typhoid fever, amoebic dysentery and bacillary dysentery -- were brought under control by the 1930's. However, we still have outbreaks of communicable disease from sewage contamination of water supply systems in the United States. Recent outbreaks are discussed later in this report. As we shall see in this report, we found evidence of bacterially contaminanted water being served to consumers in communities ranging in size from less than 500 to 100,000 persons.

Disturbing as it is to find such evidence, there is a second, more far reaching problem of considerable importance to the country. That problem is the ability of all our present municipal water supply systems to continue to deliver water of good quality and adequate quantity in the decades ahead to a rapidly rising population. This is made all the more difficult by the growing amount of chemical pollutants entering our lakes, streams and aquifers.

Current forecasts provide an indication of how much water we will be needing in the future. According to one calculation, we used 270 billion gallons of water per day in 1965 in support of industry, agriculture, and for domestic drinking purposes. By the year 2020, our water requirements. are expected to exceed 1300 billion gallons each day. But hydrologists estimate that the total usable surface water supply from rainfall is only 700 billion gallons per day.

Even today, when we return our used waters to streams or lakes we find ourselves using them over and over again. The need for multiple reuse of water will become greatly amplified in major sections of the country in years ahead. If the future population growth rate is only half of current projections, and even where desalinization of salt and brackish waters is a practical and economically feasible alternative, major sections of the country will find it increasingly necessary to practice multiple reuse in the years ahead. Much of the future problem relates to the need for having this water available when and where it is needed. For this reason, ground water has emerged as a significant source now accounting for more than 20 percent of the Nation's water supply requirements.

Where both surface and ground sources are insufficient, it will become necessary to directly recycle our wastewaters. This means taking wastewaters and using them over again in a closed system without first discharging them into our streams and lakes. With our present technology we cannot use water in this fashion for drinking, recreation or other intimate uses. It is true that during the past decade, much has been learned about the treatment of wastewaters for removal of some organic substances and bacteria, and processes for renovating wastewaters for direct reuse have even proceeded to the pilot plant stage. But the reuse of wastewaters over and over again presents us with new problems; with present treatment processes, chemicals would be concentrated, and therefore, new treatment processes must be developed; fail-safe warning systems must be found; and new methods must be developed to detect and remove such impurities as the pesticides and viruses which currently are present in almost undetectable concentrations. Little is known about the concentrations of carcinogens, antibiotics or hormones present in wastewaters.

Even though wastewater control efforts will be expanded in the future and are sorely needed to minimize future pollution of our drinking water sources, it is clear that water pollution control efforts alone cannot assure a safe drinking water quality. It is highly unlikely that even the best conventional waste treatment will produce a discharge of drinking water quality. As such, treatment does not remove all of todays known potential toxicants or biological agents prior to discharge. In addition, there are pollutants which have an effect on source of drinking water which are not subject to waste treatment. Such pollutants are found in uncontrolled runoff from our fields and forests, and from chemicals spilled in transportation accidents. Both of these examples adversely affect quality at the community water treatment plant intake. Both today and in the future, delivery of adequate supplies of safe water at the consumer's tap will be dependent upon properly designed, constructed and operated municipal water treatment plants and distribution systems.

SCOPE OF THE STUDY

The National Community Water Supply Study was designed to cover a variety of natural and demographic situations across the country. It surveyed 969 public water systems -- in the State of Vermont and in eight standard metropolitan statistical areas -- New York, New York; Charleston, West Virginia; Charleston, South Carolina; Cincinnati, Ohio; Kansas City, Missouri-Kansas; New Orleans, Louisiana; Pueblo, Colorado; and San Bernardino-Riverside-Ontario, California. The survey investigated every public water system in each of the designated areas. Twenty-two big city systems in the study areas served over 13 million people. The remaining 947 systems served 5 million people in communities of less than 100,000 people and 760 of those 947 systems each served populations of less than 5,000 people.

The survey was not expected to provide a perfect random sample of water supply systems throughout the country, but the results are reasonably representative of the status of

90-224 O - 82 - 68

the water supply industry in the United States. As detailed in the Analysis of National Survey Findings, and in the nine supportive reports presenting findings for the specific study areas, the Public Health Service Drinking Water Standards of 1962 were used to evaluate both the current quality of drinking water and the health risks associated with the systems delivering that water.

Each water supply system was investigated to determine the quality of water being delivered to the consumer's tap, the adequacy of physical facilities and operating procedures, and the status of surveillance programs so necessary to the delivery of adequate quantities of safe water on a continuing basis consistent with the U.S. Public Health Service Drinking Water Standards. Two or more water samples, depending on the size of the community population, were analyzed for chemical, bacteriological and other constituents. Each sample indicated the quality of water at a particular point in time, and when all samples from a given system were evaluated together, the average quality of water being served during the study was determined.

The evaluation of each system was designed to identify deficiencies which could lead to a system failure in the future that, in turn, could lead to the delivery of potentially hazardous water quality to the consumer. Past records were studied to determine operational practices, including the frequency of past failures of equipment. The current condition of physical facilities was examined for such deficiencies as inadequate disinfection equipment in the event of an emergency, or finished water reservoirs poorly protected from contamination. The surveillance programs were reviewed with an eye on such problems as collection of bacteriological samples on a regular basis and the regular inspection of the distribution systems to prevent recontamination of the drinking water between the treatment plant and the consumer's tap.

FINDINGS IN THE STUDY AREAS

Drinking water quality defects and health risk problems involving poor operating procedures, inadequate physical facilities, and poor surveillance activities were found in both large cities and small towns irrespective of geographical location. In general, the larger systems, those serving in

excess of 100,000 persons including the 10.4 million people in the cities of New York, Cincinnati, Kansas City, and New Orleans, were delivering an "average" acceptable water quality consistent with the Drinking Water Standards. On this average basis, 86 percent of the approximately 18 million people covered by this study, or about 15.5 million served by 59 percent of the 969 systems investigated, were receiving good water during the study. The larger systems also evidenced better operation of treatment and distribution facilities. While sanitary defects were found in larger systems, the overall health risk was generally judged to be low, even though improvements in operational procedures and physical facilities are believed warranted in many instances.

Conversely, 41 percent of the 969 systems were delivering waters of inferior quality to 2.5 million people. In fact, 360,000 persons in the study population were being served waters of a potentially dangerous quality. This was particularly true of community systems serving less than 100,000 persons. Even where average quality was good, occasional samples were found to contain fecal bacteria, lead, copper, iron, manganese and nitrate and a few even exceeded the arsenic, chormium, and selenium limits. After all, people do not drink "average" water. They drink "samples" of water from their kitchen faucets or a drinking fountain at work or play. It is particularly important to note that communities of less than 100,000 people evidenced a prevalence of the water quality deficiencies and health risk potential. Some of the very small communities were even drinking water on a day-to-day basis that exceeded one or more of the dangerous chemical limits, such as selenium, arsenic or lead.

The major findings from the study, in the light of today's water treatment technology are as follows:

QUALITY OF WATER BEING DELIVERED

* 36 percent of 2,600 individual tap water samples contained one or more bacteriological or chemical constituents exceeding the limits in the Public Health Service Drinking Water Standards.

...9 percent of these samples contained bacterial contamination at the consumer's tap evidencing potentially dangerous quality.

..30 percent of these samples exceeded at least one of the chemical limits indicating waters of inferior quality.

..11 percent of the samples drawn from 94 systems using surface waters as a source of supply exceeded the recommended organic chemical limit of 200 parts per billion.

STATUS OF PHYSICAL FACILITIES

* 56 percent of the systems evidenced physical deficiencies including poorly protected groundwater sources, inadequate disinfection capacity, inadequate clarification capacity, and/or inadequate system pressure.
* In the eight metropolitan areas studied, the arrangements for providing water service were archaic and inefficient. While a majority of the population was served by one or a few large systems, each metropolitan area also contained small inefficient systems.

OPERATORS' QUALIFICATIONS

* 77 percent of the plant operators were inadequately trained in fundamental water microbiology; and 46 percent were deficient in chemistry relating to their plant operation.

STATUS OF COMMUNITY PROGRAMS

* The vast majority of systems were unprotected by cross-connection control programs, plumbing inspection programs on new construction, or continuing surveillance programs.

STATUS OF STATE INSPECTION AND TECHNICAL ASSISTANCE PROGRAMS

* 79 percent of the systems were not inspected by State or County authorities in 1968, the last full calendar year prior to the study. In 50 percent of the cases, plant officials did not remember when, if ever, a state or local health department had last surveyed the supply.

* An insufficient number of bacteriological samples were analyzed for 85 percent of the water systems -- and 69 percent of the systems did not even analyze half of the numbers required by the PHS Drinking Water Standards.

NATIONAL SIGNIFICANCE OF THE STUDY FINDINGS

Well established standards of good practice, in terms of the full application of existing technology, are not being uniformly practiced today to assure good quality drinking water. While most professionals hold the USPHS Drinking Water Standards in high esteem, the study shows that an unexpectedly high number of supplies, particularly those serving fewer than 100,000 people, exceeded either the mandatory or recommended constituent levels of bacterial or chemical content, and a surprisingly larger number of systems evidence deficiencies in facilities, operation and surveillance.

The National significance can be placed in perspective by considering the size-distribution of municipal water supply systems that were the subject of comprehensive facilities census conducted during 1963. At that time, 150 million Americans were being served by 19,236 public water supply systems including 73 million people dependent upon 18,837 small systems, each serving communities of less than 100,000 people. When these statistics are compared with the fact that over 40 percent of the small systems investigated during the current study evidenced current quality deficiencies on the average and both large and small communities were judged to be giving inadequate attention to quality control factors, there can be little doubt that this situation warrants major National concern.

Most of our municipal water supply systems were constructed over 20 years ago. Since they were built, the populations that many of them serve have increased rapidly -- thus placing a greater and greater strain on plant and distribution system capacity. Many systems are already plagued by an insufficient supply, inadequate transmission or pumping capacity, and other known deficiencies that become most evident during peak water demand periods. Moreover, when these systems were built, not enough was known to design a facility for the removal of toxic chemical or virus contaminants. They were designed solely to treat raw water of high quality for the removal of coliform bacteria. Such facilities are rapidly becoming obsolete as demands rise for water. The task in the future for our water treatment plants can be visualized by examining our population trend. By the year 2000 -- only 30 years from now -- our present population of about 205 million is expected to spurt to 300 million. By that time, it is expected that 187 million people (the total U.S. population just eight years ago) will be concentrated in four urban agglomerations -- on the Atlantic Coast, the Pacific Coast, on the coast of the Gulf of Mexico and on the shores of the Great Lakes. Most of the remaining population will be living in cities of 100,000 or more.

In the past, communities and industries were in the favorable position of being able to select the best source of supply consistent with their quantity and quality requirements. The demand for more water to quench the thirst of a growing population and meet the needs of expanding industry have led many people to ask how future quantity requirements will be satisfied. Concurrently, expanding water use comes at a time of greatly increased pollution of ground water aquifers, as well as streams, lakes and rivers. Historically and traditionally, ground water coming from its natural environment has been considered of good sanitary quality -- safe to drink,

if palatable. Nevertheless, 9 percent of the wells sampled during this survey showed coliform bacterial contamination. It seems fair to say that a similar situation prevails nationwide.

Chemical contaminants in our environment have been on the increase for about 25 years, due to the dramatic expansion in the use of chemical compounds for agricultural, industrial, institutional and domestic purposes. There are about 12,000 different toxic chemical compounds in industrial use today, and more than 500 new chemicals are developed each year. Wastes from these chemicals -- synthetics, adhesives, surface coatings, solvents and pesticides -- already are entering our ground and surface waters, and this trend will increase. We know very little about the environmental and health impacts of these chemicals. For example, we know very little about possible genetic effects. We have difficulty in sampling and analyzing them -- we have much greater difficulties in determining their contribution to the total permissible body burden from all environmental insults.

Consideration of the findings of this study leaves no doubt that many systems are delivering drinking water of marginal quality on the average, and many are delivering poor quality in one or more areas of their water distribution systems today. To add to this quality problem, the deficiencies identified with most water systems justifies real concern over the ability of most systems to deliver adequate quantities of safe water in the future.

RECOMMENDATIONS

Modern facilities operated by qualified personnel under adequate surveillance will provide high quality water with the lowest possible risk that current technology can offer. The following recommendations are made to those state and municipal officials concerned with the responsibility for safe, adequate water supply:

* Apply available water treatment and distribution technology, more intensively.
* Determine manpower needs of the state and county programs now in order to develop a program to provide technical assistance, training, and adequate surveillance to the Nation's numerous community water supply systems.
* Upgrade the skills of personnel responsible for the operations and maintenance of the water supply systems themselves, particularly in the case of those systems serving fewer than 100,000 people, through short courses, seminars, and correspondence courses to employees presently employed in the field as well as those wishing to enter it.
* Expand state laboratory resources to add the capability of routinely analyzing water samples for biological and chemical agents of health significance.
* Provide educational opportunities in water hygiene at the university level to assure the availability of qualified personnel to meet existing and future needs.

In addition to defining the need for improvements at the state and community level, this study's findings also show a need for research, development and planning to improve current practices and to provide adequate supplies of safe water in the future. The study clearly evidences the need to develop:

* Improved systems including surveillance procedures, to assure continuous and effective disinfection programs, particularly in smaller communities.
* Additional engineering research to simplify and lower the cost of removing excess nitrates and fluorides.
* Improved systems to control aesthetically undesirable concentrations of iron, manganese, hydrogen sulfide, and color, as well as taste and odor-causing organic constituents.

* Analytical surveillance techniques and control procedures to eliminate the deterioration that is occurring in water quality between the time the water leaves the treatment plant and the time it reaches the consumer.
* Improved planning to provide adequate quantities of safe water to the majority of our people who live in urban areas, and to assure optimum resource development and utilization to meet the needs of major population complexes.

History gives ample evidence of the inescapable penalties paid by past civilizations which failed to provide for the safety of their drinking water systems. Modern history shows that such waterborne diseases as typhoid, dysentery, and cholera are controllable and, in fact, were all but eliminated in the United States by the 1930's by applying the principles identified in the Drinking Water Standards. This study demonstrates that we have begun to backslide, which in turn, explains why it is that waterborne disease persists as evidenced by the epidemic at Riverside, California in 1965 which affected 18,000 people, the 30 percent gastroenteritis attack rate in Angola, New York in 1968 due to a failure in the disinfection system, and the 60 percent infectious hepatitis attack rate which afflicted the Holy Cross football team in 1969 as a result of the ineffective cross-connection control procedures. These recent episodes, reinforced by the findings of the current study, provide ample evidence of the increasing potential for similar episodes unless we improve water system operations consistent with currently accepted standards of practice.

We must also recognize numerous voids in existing technology which do not allow measurement of the current effectiveness of existing procedures. The current Drinking Water Standards do little more than mention viruses, neglect

numercus inorganic chemicals which are known to be toxic to man, and identify only one index that is supposed to cover the entire family of organic chemical compounds. These standards must be updated.

The need for knowledge about the health effects of waterborne contaminants is acute. Research is required, for example, to develop improved treatment control and surveillance procedures for viruses. The chronic long-term effects of chemical contaminants requires thorough investigation. For instance, we must determine the concentration levels at which numerous contaminants, such as mercury, molybdenium or selenium,cause adverse health effects. Similarly, we must mount a major attack on a host of synthetic organic chemicals which are growing at a rate of 500 new compounds per year. In addition to the threats posed by such well-publicized materials as pesticides, we now have to face a multitude of new organic chemical compounds. Recognizing our relatively fixed amount of ground and surface water supply, the increasing water needs of the general population and industry, and the need to reuse our available supplies to satisfy future demands, we can no longer afford to "wait and see what happens." We must begin to investigate before we introduce new compounds into the environment.

All this research is essential if we are to maintain at least the status quo for the current generation. These are issues confronting scientists and engineers today at all levels of government. But the overall water hygiene effort is this generation's responsibility to future generations. Indeed, answers to many of the currently identifiable research problems of today must be gained quickly if the current and future planners of our environment are to begin to formulate rational, economic and effective plans for the continued growth and development of our society.

James H. McDermott, P.E.
Director
Bureau of Water Hygiene

APPENDIX C

TABLE I.—COMPARISON OF PUBLIC LAW 93-523, S. 433 (AS REPORTED), AND H.R. 13002 (AS REPORTED)

	Public Law 93-523	S. 433	H.R. 13002
Short title	1	1	1
Public water system	2	—	2
PUBLIC HEALTH SERVICE ACT, TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS			
Part A—Definitions:			
Definitions	1401	3	1401
Part B—Public water systems:			
Coverage	1411	—	1411
National drinking water regulations	1412	4	1412
State primary enforcement responsibility	1413	5(a)	1413
Failure by State to assure enforcement of drinking water regulations	1414	5(b), 5(c), 14	1414
Variances	1415	—	1415
Exemptions	1416	—	1416
Part C—Protection of underground sources of drinking water:[2]			
Regulations for State programs	1421	—	1421
State primary enforcement responsibility	1422	—	1422
Failure by State to assure enforcement of program	1423	—	1423
Interim regulation of underground injections	1424	—	1424
Part D—Emergency powers:			
Emergency powers	1431	6	1431
Part E—General provisions:			
Assurance of availability of adequate supplies of chemicals necessary for treatment of water	1441	[3] —	1441
Research, technical assistance, information, training of personnel	1442	8	1442
Grants for State programs	1443	11	1443
Special study and demonstration project grants; guaranteed loans	1444	10	1444
Records and inspections	1445	13	1445
National drinking water advisory council	1446	7	1446
Federal agencies	1447	19	1447
Judicial review	1448	12(c)	
Citizen's civil action	1449	17	—
General provisions	1450	12(a)	1448
Rural water survey	3	9	3
Bottled drinking water	4	20	4
(Findings)	—	2	—
(Prohibited acts)	—	15	—
(Penalties and remedies)	—	[4] 16	—
(Confidentiality)	—	18	—
(Authorization for appropriations)	—	[5] 21	—

[1] A dash (—) in place of a section number indicates "no comparable provision."

[2] Sec. 1425, optional demonstration by States relating to oil or natural gas, was added to the Safe Drinking Water Act by Public Law 96-502 in 1980. Sec. 1425 is the only entirely new section added to the law since 1973.

[3] The Senate considered a comparable provision in separate legislation, S. 2816, which was passed by the Senate June 4, 1974.

[4] This provision, which authorized penalties for failure to comply with regulations under the act or failure to comply with records and inspections requirements, was similar to sec. 1414(b) of the Safe Drinking Water Act.

[5] This section provided general authorization for appropriations, in addition to specific authorizations in secs. 8, 9, 10, and 11 of S. 433.

BIBLIOGRAPHY

(This bibliography contains House and Senate hearings, reports, prints, and debates of the 92d, 93d, 94th, 95th, and 96th Congresses which focus on enacting and amending the Safe Drinking Water Act.)

92D CONGRESS

HEARINGS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Public Health and Environment. Safe drinking water. Hearings on H.R. 1093, H.R. 5454, and H.R. 437. 92nd Congress, 1st session. May 24–26, 1971. Washington, U.S. Govt. Print. Off. 1971. Committee serial No. 92–24. 673 pp.

———. Supplemental hearings on H.R. 14899. 92nd Congress, 2d session. June 7, 8, 1972. Washington, U.S. Govt. Print. Off. 1972. Committee serial No. 92–85. 198 pp.

———. Senate. Committee on Commerce. Potable waters. Hearings on amendment 410 to S. 1478. 92nd Congress, 2d session. March 20, 1972. Washington, U.S. Govt. Print. Off. 1972. Committee serial No. 92–57. 214 pp.

REPORTS

U.S. Congress. Senate. Committee on Commerce. Safe Drinking Water Act of 1972. Recommends passage of S. 3994. 92nd Congress, 2d session. Senate Report No. 92–1156. September 15, 1972. 43 pp.

DEBATES

Senate debate on S. 3994, September 28, 1972. Congressional Record, vol. 118, part 25, pp. 32728–32742.

93D CONGRESS

HEARINGS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Public Health and Environment. Safe Drinking Water Act—1973. Hearings on H.R. 5368, H.R. 1059, H.R. 5348, and H.R. 5995. 93d Congress, 1st session. March 8, 9, 1973. Washington, U.S. Govt. Print. Off. 1973. Committee serial No. 93–11. 445 pp.

———. Senate. Committee on Commerce. Subcommittee on Environment. Safe Drinking Water Act of 1973. Hearings on S. 433, S. 1735. 93rd Congress, 1st session. May 31, 1973. Washington, U.S. Govt. Print. Off. 1973. Committee serial No. 93–39. 216 pp.

U.S. Congress. Emergency Chlorine Allocation Act. Hearings on S. 2846. 93rd Congress, 2d session. January 29, 30, 1974. Washington, U.S. Govt. Print. Off. 1974. Committee serial No. 93–65. 118 pp.

REPORTS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Safe Drinking Water Act. Recommends passage of H.R. 13002. 93rd Congress, 2d session. House Report No. 93–1185. July 10, 1974. 83 pp.

———. Supplemental report on H.R. 13002. 93rd Congress, 2d session. House Report No. 93–1185,—pt. 2. August 15, 1974. 2 pp.

———. Senate. Committee on Commerce. Safe Drinking Water Act of 1973. Recommends passage of S. 433. 93rd Congress, 1st session. Seante Report No. 93–231. June 20, 1973. 43 pp.

———. Emergency Chlorine Allocation Act of 1974. Recommends passage of S. 2846. 93rd Congress, 2d session. Senate Report No. 93–861. May 21, 1974. 20 pp.

PRINTS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Summary of major provisions of Safe Drinking Water Act (H.R. 13002). 93rd Congress, 2d session. September 1974. Committee Print No. 28. 5 pp.

DEBATES

Senate debate on S. 433, June 22, 1973. Congressional Record, vol. 119, part 16, pp. 20812–20817.

Senate debate on S. 2846, June 4,1974. Congressional Record, vol. 120, part 13, pp. 17511–17516.

House debate on H.R. 13002 and S. 433 passed in lieu, November 19, 1974. Congressional Record, vol. 120, part 27, pp. 36366–36403.

Senate agreed to House amendments to S. 433 with an amendment, November 26, 1974. Congressional Record, vol. 120, part 28, pp. 37570–37594.

House concurred in Senate amendment to S. 433, December 3, 1974. Congressional Record, vol. 120, part 28, pp. 37863–37874.

94TH CONGRESS

PRINTS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Compilation of selected acts within the jurisdiction of the Committee on Interstate and Foreign Commerce. Vol. III: environment law. 94th Congress, 1st session. October 1975. 275 pp.

95TH CONGRESS

HEARINGS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Health and the Environment. Safe Drinking Act amendments of 1977. Hearings on H.R. 5829, H.R. 6160, H.R. 5830, H.R. 6159, H.R. 2317, H.R. 3750, and H.R. 4944. 95th Congress, 1st session. April 22, 1977. Washington, U.S. Govt. Print. Off. 1977. Committee serial No. 95–9. 345 pp.

———. Federal Safe Drinking Water Act: oversight. 95th Congress, 2d session. September 25, 1978. Washington, U.S. Govt. Print. Off. 1978. Committee serial No. 95–158. 365 pp.

———. Senate. Committee on Environment and Public Works. Subcommittee on Environmental Pollution. Safe Drinking Water Act oversight. 95th Congress, 2d session. July 18, 1978. Washington, U.S. Govt. Print. Off. 1978. Committee serial No. 95–H70. 356 pp.

REPORTS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Safe Drinking Water Act amendments of 1977. Recommends passage of H.R. 6827. 95th Congress, 1st session. House Report No. 95–338. May 16, 1977. 22 pp.

———. Senate. Committee on Environment and Public Works. Safe Drinking Water Act authorizations. Recommends passage of S. 1528. 95th Congress, 1st session. Senate Report No. 95–191. May 16, 1977. 4 pp.

PRINTS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Compilation of selected acts within the jurisdiction of the Committee on Interstate and Foreign Commerce. Vol. 3: environment law. 95th Congress, 1st session. Committee Print No. 95–7. March 1977. 387 pp.

———. Compilation of selected acts within the jurisdiction of the Committee on Interstate and Foreign Commerce. Vol. 3: environment law. 95th Congress, 2d session. 1978. Committee Print No. 95–40. 361 pp.

———. Subcommittee on Oversight and Investigations. Carbon tetrachloride contamination of the Ohio River: a case study of Federal efforts to ensure the availability of safe drinking water. 95th Congress, 1st session. September 1977. Committee Print No. 95–24. 42 pp.

———. Senate. Committee on Environment and Public Works. Safe Drinking Water Act, as amended through November 1977. 95th Congress, 1st session. November 1977. Committee serial No. 95–10. 40 pp.

DEBATES

Senate debate on S. 1528, May 24, 1977. Congressional Record, vol. 123, part 13, pp. 16396–16397.

House debate on H.R. 6827 and S. 1528 passed in lieu, July 12, 1977. Congressional Record, vol. 123, part 18, pp. 22457–22470.

Senate agreed to House amendment to S. 1528 with amendments, August 5, 1977 Congressional Record, vol. 123, part 22, pp. 27418–17420.

House agreed to one Senate amendment to S. 1528 and amended the other, November 1, 1977. Congressional Record, vol. 123, part 28, pp. 36334.

Senate concurred in House amendment to S. 1528, November 1, 1977. Congressional Record, vol. 123, part 28, pp. 36250–36259.

96TH CONGRESS

HEARINGS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Health and the Environment. Safe Drinking Water Act authorization. Hearing on H.R. 3040. 96th Congress, 1st session. March 26, 1979. Washington, U.S. Govt. Print. Off. 1979. Committee serial No. 96–7. 370 pp.

———. Safe drinking water—oversight. 96th Congress, 1st session. November 1, 1979. Washington, U.S. Govt. Print. Off. 1979. Committee serial No. 96–181. 529 pp.

———. Quality of drinking water—1980. 96th Congress, 2d session. June 6, 9, August 18, 1980. Washington, U.S. Govt. Print. Off. 1980. Committee serial No. 96–188. 714 pp.

———. Senate. Committee on Environment and Public Works. Subcommittee on Environmental Pollution. Reauthorization of the Toxic Substances Control Act, Safe Drinking Water Act, and the Marine Protection, Research, and Sanctuaries Act. 96th Congress, 1st, session. March 19, 1979. Washington, U.S. Govt. Print. Off. 1979. Committee serial No. 96–H10. 147pp.

REPORTS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. Safe Drinking Water Act authorizations. Recommends passage of H.R. 3509. 96th Congress. 1st session. House Report No. 96–186. May 15, 1979. 14 pp.

———. Safe Drinking Water Act amendments. Recommends passage of H.R. 8117. 96th Congress, 2d session. House Report No. 96–1348. September 19, 1980. 13 pp.

———. Senate. Committee on Environment and Public Works. Amending the safe Drinking Water Act. Recommends passage of S. 1146. 96th Congress, 1st session. Senate Report 96–161. May 15, 1979. 8 pp.

PRINTS

U.S. Congress. House Committee on Interstate and Foreign Commerce. Compilation of selected acts within the jurisdiction of the Committee on Interstate and Foreign Commerce. Vol. 3: environment law. 96th Congress, 1st session. 1979. 461 pp.

———. Senate. Committee on Environment and Public Works. The Safe Drinking Water Act, as amended by Public Law 96–63, September 6, 1979 and Public Law 96–502, December 5, 1980. 96th Congress, 2d session. December 1980. 42 pp.

DEBATES

Senate debate on S. 1146, May 22, 1979. Congressional Record, vol. 125 (daily ed.), pp. S6302–S6303.

House debate on H.R. 3509 and S. 1146 passed in lieu, July 30, 1979. Congressional Record, vol. 125 (daily ed.), pp. H6837–H6847.

Senate agreed to House amendment to S. 1146, August 3, 1979. Congressional Record, vol. 125 (daily ed.), pp. S11633–S11634.

House debate on H.R. 8117, September 22, 1980. Congressional Record, vol. 126 (daily ed.), pp. H9311–H9316.

House passed H.R. 8117, September 23, 1980. Congressional Record, vol. 126 (daily ed.), p. H9424.

Senate debate on H.R. 8117, November 19, 1980. Congressional Record, vol. 126 (daily ed.), pp. S14699–S14701.

90-224 O - 82 - 69

SECTION-BY-SECTION INDEX

(NOTE ON THE USE OF THE INDEX: Bold figures in the index denote particularly significant references.)

SECTION 2: PUBLIC WATER SYSTEMS

PART A—DEFINITIONS

SECTION 1401: DEFINITIONS

Source: Page

Safe Drinking Water Act, as amended ... 7–8
Public Law 95–190 (sec. 8b) ... 231
Senate Debate: August 5, 1977 ... 253
H.R. 6827, as reported May 16, 1977 ... 265
House Report (95–338) ... 281
Public Law 93–523 ... 364–365
H.R. 13002, as reported July 10, 1974 ... 462–465
House Report (93–1185) ... **542–548**, 587–588
House Debate: December 3, 1974 ... 616–617
House Debate: November 19, 1974 ... 688, 711–712
S. 433, as introduced ... 762–764
Senate Report (93–231) ... **799–800**, 815–816
Senate Debate: November 26, 1974 ... 838–839, 860–861
Senate Debate: June 22, 1973 ... 902–903

PART B—PUBLIC WATER SYSTEMS

SECTION 1411: COVERAGE

Source:

Safe Drinking Water Act, as amended ... 9
Public Law 93–523 ... 365
H.R. 13002, as reported July 10, 1974 ... 466
House Report (93–1185) ... **548–549**, 588
House Debate: December 3, 1974 ... 617
House Debate: November 19, 1974 ... 649, 712
Senate Debate: November 26, 1974 ... 839, 861
Senate Hearings—Administration Testimony ... 921, 922, 930, 932

SECTION 1412: NATIONAL DRINKING WATER REGULATIONS

Source:

Safe Drinking Water Act, as amended ... 9–12
Public Law 95–190 (sec. 3c, 12a) ... 228, 232
Senate Debate: November 1, 1977 ... 247, **249**
Senate Debate: August 5, 1977 ... 250
H.R. 6827, as reported May 16, 1977 ... 260
House Report (95–338) ... 274, 281–282
House Debate: November 1, 1977 ... 290–291, **292–293**, **294**, 295
House Debate: July 12, 1977 ... 299–300

Source—Continued Page
Public Law 93–523 365–368
H.R. 13002, as reported July 10, 1974 466–473
House Report (93–1185) 533–534, **542–548, 549–552,** 570, 578, 588–591
House Debate: December 3, 1974 617–619
House Debate: November 19, 1974 ..... 643, 648, 650, **652–653,** 666, 673, 675, 706–707, 712–714
House Hearings—Administration Testimony 738, 739–741, 743, 756–757
S. 433, as introduced 764–767
Senate Report (93–231) 795–796, **800–802,** 816–817, 830–831
Senate Debate: November 26, 1974 ..... 839–841, 862–864, **887, 890**
Senate Debate: June 22, 1973 903–904
Senate Hearings—Administration Testimony 915–916, 917, 926–929

SECTION 1413: STATE PRIMARY ENFORCEMENT RESPONSIBILITY

Source:
Safe Drinking Water Act, as amended 12–13
Public Law 93–523 368–369
H.R. 13002, as reported July 10, 1974 473–475
House Report (93–1185) **553–554,** 591–592
House Debate: December 3, 1974 619–620
House Debate: November 19, 1974 ..... 648, 650, 665–666, 673, 675, 706–707, 714–715
House Hearings—Administration Testimony 739
S. 433, as introduced 767
Senate Report (93–231) 796, **802–804,** 817–818, 830–831
Senate Debate: November 26, 1974 ..... 841–842, 864, **890–891**
Senate Debate: June 22, 1973 905
Senate Hearings—Administration Testimony 916

SECTION 1414: FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

Source:
Safe Drinking Water Act, as amended 13–16
Public Law 95–190 (sec. 12b) 232
Senate Debate: November 1, 1977 ..... 247, 248, **249**
House Debate: November 1, 1977 ..... 291, **292–293, 294**
House Debate: July 12, 1977 ..... 299–300, 313–314
Public Law 93–523 369–371
H.R. 13002, as reported July 10, 1974 475–481
House Report (93–1185) **554–557,** 565, 566, 574, 578–579, 592–595
House Debate: December 3, 1974 620–622
House Debate: November 19, 1974 ..... **648, 653,** 665, 673, 675, 706–707, 715, 716

Source—Continued
Public Law 93–523—Continued
Page
House Hearings—Administration Testimony 739, 752–755, 757
S. 433, as introduced 767–769
Senate Report (93–231) 796, **802–804,** 817–818, 830
Senate Debate: November 26, 1974 842–843, 864–866, **888, 890–891,** 892
Senate Debate: June 22, 1973 905

SECTION 1415: VARIANCES

Source:
Safe Drinking Water Act, as amended 16–19
Public Law 96–502 (sec. 4a) 50
H.R. 8117 56
House Report (96–1348) 60, 61, **65,** 66
House Debate: September 22, 1980 77
Public Law 93–523 372–374
H.R. 13002, as reported July 10, 1974 481–486
House Report (93–1185) 534, 544, 548, 552, 553, 556, **557–559,** 595–597
House Debate: December 3, 1974 622–624
House Debate: November 19, 1974 650, 706–707, 717–718
Senate Debate: November 26, 1974 843–845, 866–868, **888,** 890, **891–892**

SECTION 1416: EXEMPTIONS

Source:
Safe Drinking Water Act, as amended 19–22
Public Law 96–502 (sec. 1, 4b) 49, 50
H.R. 8117 54, 56–57
House Report (96–1348) 60, **61–62, 65,** 67
Senate Debate: November 19, 1980 **73,** 74, **75**
House Debate: September 22, 1980 **76–77, 78–79,** 82, 84, 85
Public Law 95–190 (sec. 10a) 232
Senate Debate: August 5, 1977 253
H.R. 6827, as reported May 16, 1977 267
House Report (95–338) 282–283
Public Law 93–523 375–377
H.R. 13002, as reported July 10, 1974 486–492
House Report (93–1185) 534, 548, 551, 552, 553, 556, 557, **559–560,** 597–599
House Debate: December 3, 1974 624–626
House Debate: November 19, 1974 643, 648, 650, **661–662,** 666, 706–707, 718–720
Senate Debate: November 26, 1974 845–847, 868–870, **888,** 890, **891–892**

PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

SECTION 1421: REGULATIONS FOR STATE PROGRAMS

Source: Page

Safe Drinking Water Act, as amended 22–24
Public Law 96–502 (sec. 3, 4c) 50
H.R. 8117 ..... 56, 57
House Report (96–1348) 60, 63, **64, 65,** 67–68
Senate Debate: November 19, 1980 ..... **72, 73–74**
House Debate: September 22, 1980 ..... **77,** 79
Public Law 95–100 (sec. 6b) 230
Senate Debate: November 1, 1977 ..... **249**
Senate Debate: August 5, 1977 ..... 252, 254
House Debate: November 1, 1977 ..... 290, **293–294,** 295, **296–297, 298**
House Debate: July 12, 1977 ..... 301, **307, 318–319,** 320, 323–324
Public Law 93–523 377–379
H.R. 13002, as reported July 10, 1974 492–497
House Report (93–1185) 534, **560–564,** 565, 566, 574, **580,** 599–601
House Debate: December 3, 1974 626–627
House Debate: November 19, 1974 ..... 643, 650, 667, **671–673,** 675, 688, 706–707, 720–721
Senate Debate: November 26, 1974 ..... 847–848, 871–872, **889, 892–893**

SECTION 1422: STATE PRIMARY ENFORCEMENT RESPONSIBILITY

Source:

Safe Drinking Water Act, as amended 24–26
Public Law 95–190 (sec. 6a) 230
Senate Debate: August 5, 1977 252
H.R. 6827, as reported May 16, 1977 264
House Report (95–338) 270, **277–279,** 283
House Debate: July 12, 1977 ..... 306, 316
House Hearings—Administration Testimony 345
Public Law 93–523 379–380
H.R. 13002, as reported July 10, 1974 497–500
House Report (93–1185) **564–565,** 601–602
House Debate: December 3, 1974 627–628
House Debate: November 19, 1974 ..... **671–673,** 688, 706–707, 721–722
Senate Debate: November 26, 1974 ..... 848–849, 872–873, **889, 892–893**

SECTION 1423: FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

Source: Page
Safe Drinking Water Act, as amended 26–27
Public Law 96–502 (sec. 2b) 49
H.R. 8117 56
House Report (96–1348) 64, 68
Senate Debate: November 19, 1980 72
Public Law 93–523 380–381
H.R. 13002, as report July 1974 500–502
House Report (93–1185) **565–566,** 574, 602–603
House Debate: December 3, 1974 628–629
House Debate: November 19, 1974 ..... 671, 688, 722–723
Senate Debate: November 26, 1974 ..... 849–850, 873–874, **889, 892–893**

SECTION 1424: INTERIM REGULATION OF UNDERGROUND INJECTIONS

Source:
Safe Drinking Water Act, as amended 27–28
Public Law 93–523 381–383
H.R. 13002, as reported July 10, 1974 502–505
House Report (93–1185) **566,** 573, 603–605
House Debate: December 3, 1974 629–630
House Debate: November 19, 1974 ..... 659–661, 671, **684–686,** 688, 723–724
Senate Debate: November 26, 1974 ..... 850–851, 874–875, **889, 892–893**

SECTION 1425: OPTIONAL DEMONSTRATION BY STATES RELATING TO OIL OR NATURAL GAS

Source:
Safe Drinking Water Act, as amended 28–29
Public Law 96–502 (sec. 2a) 49
H.R. 8117 54–56
House Report (96–1348) 60, **62–64,** 69
Senate Debate: November 19, 1980 ..... **72, 73**
House Debate: September 22, 1980 ..... 77, **79**

PART D—EMERGENCY POWERS

SECTION 1431: EMERGENCY POWERS

Source:
Safe Drinking Water Act, as amended 29–30
Public Law 93–523 383
H.R. 13002, as reported July 10, 1974 505–506
House Report (93–1185) 541, **567–568,** 574, 605
House Debate: December 3, 1974 630
House Debate: November 19, 1974 ..... **699–701,** 724
House Hearings—Administration Testimony 739, 757
S. 433, as introduced 769–770
Senate Report (93–231) **804,** 818
Senate Debate: November 26, 1974 ..... 851, 875, **888, 893**
Senate Debate: June 22, 1973 904–905
Senate Hearings—Administration Testimony **916**

Part E—General Provisions

SECTION 1441: ASSURANCE OF AVAILABILTY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

Source: Page

Safe Drinking Water Act, as amended 30–32
Public Law 96–63 (sec. 3) 87
Senate Debate: August 3, 1979 99
H.R. 3509, as reported May 15, 1979 130
House Report (96–186) 133, 140, 142–143
House Hearings—Administration Testimony 173
Public Law 95–190 (sec. 7) 230
Senate Debate: August 5, 1977 252
H.R. 6827, as reported May 16, 1977 264
House Report (95–338) 270, **279,** 283–284
House Debate: July 12, 1977 316
Public Law 93–523 383–385
H.R. 13002, as reported July 10, 1974 506–511
House Report (93–1185) 534, 539, **568–569,** 573, **576–577, 581–586,** 605–607
House Debate: December 3, 1974 631–632
House Debate: November 19, 1974 ..... 650, 667, 673, 724–726
Senate Debate: November 26, 1974 ..... 851–853, 875–877, **889, 893**

SECTION 1442: RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

Source:

Safe Drinking Water Act, as amended 32–35
Public Law 96–502 (sec. 5) 50–51
H.R. 8117 57–58
House Report (96–1348) 59, 60, **65, 66,** 69–70
House Debate: September 22, 1980 ..... **77, 85**
Public Law 96–63 (sec. 1) 87
S. 1146, as reported May 15, 1979 89
Senate Report (96–161) 94–95, 96–97, 97–98
Senate Debate: August 3, 1979 ..... 99, 101
Senate Hearings—Administration Testimony 105, 111–112, 122
H.R. 3509, as reported May 15, 1979 129–130
House Report (96–186) 133, 139–140, 143
House Debate: July 30, 1979 ..... 147–148, **150,** 162–163, 170
House Hearings—Administration Testimony 173
Public Law 95–190 (sec. 2a, 3a, 3b, 3e, 4, 9, 13) 227, 228, 229, 231, 232, 233
S. 1528, as reported May 16, 1977 241–242
Senate Report (95–190) 243, 244
Senate Debate: November 1, 1977 248
Senate Debate: August 5, 1977 ..... 250–251, 251–252, 253
Senate Debate: May 24, 1977 254

Source—Continued
Public Law 95–190—Continued Page
H.R. 6827, as reported May 16, 1977 256–257, 257–260, 260–262, 266–267
House Report (95–338) 269, 270, **273–276, 280–281,** 284–286
House Debate: November 1, 1977 291, 292, **293, 294, 295–296,** 297
House Debate: July 12, 1977 300, 305–306, 309–310, **315–316,** 317, **319–320,** 327
House Hearings—Administration Testimony 347
Public Law 95–523 385–387
H.R. 13002, as reported July 10, 1974 511–515
House Report (93–1185) 539, **569–571,** 607–609
House Debate: December 3, 1974 632–633
House Debate: November 19, 1974 648, 657, 658–659, 670, 765, **703–705,** 726–727
House Hearings—Administration Testimony 739–758
S. 433, as introduced 772–775
Senate Report (93–231) 796, **805–806,** 819–821, 830
Senate Debate: November 26, 1974 853–854, 877–878, **893**
Senate Debate: June 22, 1973 905–906
Senate Hearings—Administration Testimony 917

SECTION 1443: GRANTS FOR STATE PROGRAMS

Source:
Safe Drinking Water Act, as amended 36–38
Public Law 96–502 (sec. 2c, 4d) 49, 50
H.R. 8117 56, 57
House Report (96–1348) 59, 60, 64, **65,** 70–71
Senate Debate: November 19, 1980 72
House Debate: September 22, 1980 77
Public Law 96–63 (sec. 2) 87
S. 1146, as reported May 15, 1979 89
Senate Report (96–161) 94–95, 96–97, 89
Senate Debate: August 3, 1979 99
Senate Hearings—Administration Testimony 106, 122
H.R. 3509, as reported May 15, 1979 130
House Report (96–186) 133, 139, 140, 143
House Debate: July 30, 1979 148, 162–163, 170
House Hearings—Administration Testimony 173
Public Law 95–190 (sec. 2b, 2c, 5) 227, 229
S. 1528, as reported May 16, 1977 242
Senate Debate: August 5, 1977 250, 252
Senate Debate: May 24, 1977 255
H.R. 6827, as reported May 16, 1977 257, 262–263
House Report (95–338) 269, 270, 273–274, **276–277,** 286–287
House Debate: November 1, 1977 297
House Debate: July 12, 1977 305–306, **307–308,** 316, 327
House Hearings—Administration Testimony 344–345, 352, 359–360

Source—Continued Page
Public Law 93–523 387–388
H.R. 13002, as reported July 10, 1974 516–519
House Report (93–1185) 534, 553, 570, **571, 579–580,** 609–610
House Debate: December 3, 1974 633–634
House Debate: November 19, 1974 ..... 643, 648, 657, 727–728
House Hearings—Administration Testimony 740, 745, 757–758
S. 433, as introduced 777–781
Senate Report (93–231) 796, **807–809,** 822–824, 830, 831, 833–837
Senate Debate: November 26, 1974 ..... 854–855, 878–879, **893,** 895
Senate Debate: June 22, 1973 907–908
Senate Hearings—Administration Testimony 918–920, 929–930, 931–932

SECTION 1444: SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

Source:
Safe Drinking Water Act, as amended 38–39
Public Law 96–63 (sec. —) .....
S. 1146, as reported May 15, 1979 89–90
Senate Report (96–161) 94, 97
Senate Debate: August 3, 1979 100–101
Senate Hearings—Administration Testimony 122
House Debate: July 30, 1979 170
Public Law 95–190 (sec. ——) .....
S. 1528, as reported May 16, 1977 242
Senate Report (95–190) 244
Senate Debate: May 24, 1977 255
Public Law 93–523 388–389
H.R. 13002, as reported July 10, 1974 ..... 519, 522
House Report (93–1185) 534, **572, 579–580,** 610–611
House Debate: December 3, 1974 634–635
House Debate: November 19, 1974 ..... 657, 670, 675, **686–687,** 728–729
House Hearings—Administration Testimony 759
S. 433, as introduced 776–777
Senate Report (93–231) 796, **806–807,** 821–822, 830
Senate Debate: November 26, 1974 ..... 855–856, 879–880, **889, 893–894**
Senate Debate: June 22, 1973 906–907

SECTION 1445: RECORDS AND INSPECTION

Source:
Safe Drinking Water Act, as amended 39–41
Public Law 95–190 (sec. 12c, 12d) 232–233
Senate Debate November 1, 1977 ..... 248, **249**
House Debate: November 1, 1977 ..... 291, **292–293, 294**
House Hearings—Administration Testimony 357

Source—Continued Page
Public Law 93–523 389–391
H.R. 13002, as reported July 10, 1974 522–524
House Report (93–1185) 556, **572–573**, 611–612
House Debate: December 3, 1974 635–636
House Debate: November 19, 1974 **701–702**, 729–730
House Hearings—Administration Testimony 739
S. 433, as introduced 783–784
Senate Report (93–213) **809–810**, 825
Senate Debate: November 26, 1974 856–857, 880–881, 891, **894**
Senate Debate: June 22, 1973 909

SECTION 1446: NATIONAL DRINKING WATER ADVISORY COUNCIL

Source:
Safe Drinking Water Act, as amended 41
Public Law 93–523 391
H.R. 13002, as reported July 10, 1974 525–526
House Report (93–1185) **573**, 613
House Debate: December 3, 1974 636–637
House Debate: November 19, 1974 730
House Hearings—Administration Testimony 758
S. 433, as introduced 770–772
Senate Report (93–231) 796, 802, **804–805**, 818–819, 830, 831
Senate Debate: November 26, 1974 857, 881, **894**
Senate Debate: June 22, 1973 905

SECTION 1447: FEDERAL AGENCIES

Source:
Safe Drinking Water Act, as amended 41–42
Public Law 95–190 (sec. 8a, 8d) 230, 231
Senate Debate: August 5, 1977 252–253
H.R. 6827, as reported May 16, 1977 264–265
House Report (95–338) 270, **279–280**, 287–288
House Debate: July 12, 1977 **306**, 316, 322–323
House Hearings—Administration Testimony 356–357
Public Law 93–523 391–392
H.R. 13002, as reported July 10, 1974 527–528
House Report (93–1185) **573–574**, 613–614
House Debate: December 3, 1974 637
House Debate: November 19, 1974 730
S. 433, as introduced 790–791
Senate Report (93–231) **812–813**, 828
Senate Debate: November 26, 1974 857, 882, **894**
Senate Debate: June 22, 1973 911

SECTION 1448: JUDICIAL REVIEW

Source:
Safe Drinking Water Act, as amended 42–43
Public Law 93–523 392–393
House Debate: December 3, 1974 637–638, 641
S. 433, as introduced 781–783
Senate Report (93–231) **809**, 824–825
Senate Debate: November 26, 1974 882–883, **894**
Senate Debate: June 22, 1973 908–909

SECTION 1449: CITIZEN'S CIVIL ACTION

Source: Page

Safe Drinking Water Act, as amended 43–45
Public Law 95–190 (sec. 8c) 231
Senate Debate: August 5, 1977 253
H.R. 6827, as reported May 16, 1977 265–266
House Report (95–338) **279–280**, 288
House Debate: July 12, 1977 ..... **308**
Public Law 93–523 393–394
House Report (93–1185) 578, 579
House Debate: December 3, 1974 ..... 638–639, 641
House Hearings—Administration Testimony 739, 743
S. 433, as introduced 786–788
Senate Report (93–231) 796, **811**, 826–827, 830
Senate Debate: November 26, 1974 ..... 883, **894**
Senate Debate: June 22, 1973 910
Senate Hearings—Administration Testimony 916, 917

SECTION 1450: GENERAL PROVISIONS

Source:

Safe Drinking Water Act, as amended 45–47
Public Law 93–523 394–396
H.R. 13002, as reported July 10, 1974 528–530
House Report (93–1185) **574–575**, 614–615
House Debate: December 3, 1974 639–640
House Debate: November 19, 1974 ..... **679–682**, 731–732
S. 433, as introduced 781–783
Senate Report (93–231) **809**, 824–825
Senate Debate: November 26, 1974 ..... 858–859, 883–885, **895**
Senate Debate: June 22, 1973 908–909

SECTION 3: RURAL WATER SURVEY

Source:

Safe Drinking Water Act, as amended 47–48
Public Law 95–190 (sec. 2d, 3d) 227, 228
Senate Debate: August 5, 1977 ..... 250, 251
H.R. 6827, as reported May 16, 1977 ..... 257, 260
House Report (95–338) 269, 273, 275, 288–289
House Debate: July 12, 1977 ..... 305, 316
Public Law 93–523 396–397
H.R. 13002, as reported July 10, 1974 530–531
House Report (93–1185) **575**
House Debate: December 3, 1974 640–641
House Debate: November 19, 1974 732–733
S. 433, as introduced 775–776
Senate Report (93–231) 796, **806**, 821
Senate Debate: November 26, 1974 ..... 859–860, 885–886, **895**
Senate Debate: June 22, 1973 906

SECTION 4: BOTTLED DRINKING WATER

Source: Page

Safe Drinking Water Act, as amended 48
Public Law 93–523 397
H.R. 13002, as reported July 10, 1974 532
House Report (93–1185) **575**, 615
House Debate: December 3, 1974 641
House Debate: November 19, 1974 ..... 688, 733
House Hearings—Administration Testimony 758–759
S. 433, as introduced 763
Senate Report (93–231) 815, 830, 831
Senate Debate: November 26, 1974 ..... 860, 886, **895**
Senate Debate: June 22, 1973 902–903

○